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ABSTRACT

A compilation of federal higher education laws is presented that covers: general higher education programs; Native American higher education; museums, arts and humanities, and the National Science Foundation; and assistance to specified institutions. The following legislation is included: Higher Education Act of 1965, Titles I, II, III, and IV; Student Financial Assistance Technical Amendment Act of 1982, Titles V, VI, VII, VIII, IX, X, XI, and XII; Higher Education Amendments of 1968; Education Amendments of 1972 and 1980; First and Second Morrill Acts; Bankhead-Jones Act; Housing Act of 1950; Harry S. Truman Memorial Scholarship Act; Navajo Community College Act; Tribally Controlled Community College Assistance Act of 1978; National Foundation on the Arts and the Humanities; Museum Services Act; Arts and Artifacts Indemnity Act; National Science Act of 1950; Act of March 2, 1867; Howard University Endowment Act; Herbert Hoover Memorial; Grants to Eisenhower College and to Samuel Rayburn Library; Education Amendments of 1980; Public Law 98-480 (Higher Education Projects); and Public Law 98-558 (Human Services Reauthorization Act). (SW)

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[COMMITTEE PRINT]

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME III—HIGHER EDUCATION

As Amended Through December 31, 1984

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

DECEMBER 1984

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PART I—GENERAL HIGHER EDUCATION PROGRAMS

Higher Education Act of 1965

(P.L. 89–329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

PART A—COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

FINDINGS

SEC. 101. The Congress finds—

(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicap, national origin, geographic location, or economic status;

(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

(E) the efficient use of resources in postsecondary education, and the optimal allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

(20 U.S.C. 1001) Enacted Nov. 8, 1965, P.L. 89–329, sec. 101, 79 Stat. 1219; amended Oct. 16, 1968, P.L. 90–575, sec. 201, 82 Stat. 1035; amended June 23, 1972, P.L. 92–318, sec. 101(a), 86 Stat. 236; amended October 12, 1976, P.L. 94–482, sec. 101(a), 90 Stat. 2083; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1373.

ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

Sec. 102. (a) There is established a Commission to be known as the Commission on National Development in Postsecondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

(b) The Commission shall be composed of twenty-five members as follows:

(1) Nine members shall be appointed by the President of the United States.

(2) Eight of the members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader.

(3) Eight members shall be appointed by the Speaker of the House of Representatives.

(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(20 U.S.C. 1002) Enacted Nov. 8, 1965, P.L. 89-329, sec. 102, 79 Stat. 1219; amended October 12, 1976, P.L. 94-482, sec. 101(b)(1)(A), (b)(1)(B), (b)(1)(C), sec. 101(g)(2), 90 Stat. 2083, 2086; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1374.

DUTIES OF THE COMMISSION

SEC. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of—

(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner;

(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces;

(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs; and

(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the Armed Forces and to retain members of the Armed Forces.

(b)(1) In addition, the Commission shall conduct a study of the remaining barriers to adult postsecondary education which analyzes the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of the study conducted under this subsection, the term "adult postsecondary student" means individuals twenty-two years of age or older.

(2) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Commission shall—

(A) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

(B) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

(C) evaluate the extent to which the unavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

(D) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 60 and older.

(3) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Commission shall, at a mimimum—[1]

(A) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information; and

(B) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

(4) The Commission shall coordinate the study conducted under this subsection with the research and demonstration priorities of the National Institute of Education, and such other studies on student financial assistance as are authorized by this Act.

(c) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than December 31, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

(d) The Commission shall cease to exist 60 days after the submission of its final report.

(20 U.S.C. 1003) Enacted Nov. 8, 1965, P.L. 89-329, sec. 103, 79 Stat. 1220; amended June 23, 1972, P.L. 92-318, sec. 102(a)(2), 86 Stat. 237; amended October 12, 1976, P.L. 94-482, sec. 101(b)(2), sec. 101(g)(2), 90 Stat. 2084, 2086; amended June 15, 1977, P.L. 95-43, sec. 1(a)(1), 91 Stat. 213; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1375.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, as the Commission or such subcommittee or member may deem advisable.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(c) The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5,

---

[1] So in law.

United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(20 U.S.C. 1004) Enacted Nov. 8, 1965, P.L. 89–329, sec. 104, 79 Stat. 1220; amended Oct. 12, 1976, P.L. 94–482, sec. 101(b)(3), 90 Stat. 2084; amended June 15, 1977, P.L. 95–43, sec. 1(a)(2), 91 Stat. 213; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1476.

AUTHORIZATION

Sec. 105. There are authorized to be appropriated $3,000,000 to carry out the provisions of this part for the period beginning October 1, 1981 through March 1, 1984.

(20 U.S.C. 1005) Enacted Nov. 8, 1965, P.L. 89–329, sec. 105, 79 Stat. 1220; amended Oct. 16, 1968, P.L. 90–575, sec. 202, 82 Stat. 1036; amended October 12, 1976, P.L. 94–482, sec. 101 (b)(4), (b)(5), (b)(6)(A), (b)(6)(B), (b)(6)(C), (b)(7), (b)(8), (b)(9), (b)(10), sec. 101(g)(2), 90 Stat. 2084, 2085; amended June 15, 1977, P.L. 95–43, sec. 1(a)(3), 91 Stat. 213; amended June 15, 1977, P.L. 95–43, sec. 1 (b)(1), (b)(2), 91 Stat. 218; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1377.

PART B—EDUCATION OUTREACH PROGRAMS

FINDINGS

Sec. 111. The Congress finds that—

(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services concerning the availability of postsecondary educational opportunities;

(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handi-

cap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

(20 U.S.C. 1011) Enacted October 12, 1976, P.L. 94-482, sec. 101(e), 90 Stat. 2085; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1377.

STATE ALLOTMENTS

SEC. 112. (a)(1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall—

(A) allot to each State having an agreement under section 1203 of this Act an amount which bears the same ratio to 60 per centum of such amount as the adult population of that State bears to the adult population of all States, and

(B) allot 40 per centum of such amount to all States having an agreement under section 1203 on an equal basis,

except that no State shall receive less than $187,500 in any such fiscal year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the allotment specified in clauses (A) and (B) of the previous sentence and the exception contained in the previous sentence, the amount of each State's allotment under such clauses (A) and (B) (but not the amount in the exception) shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year are insufficient after the application of the previous sentence, the amount of each State's allotment shall be equal. In case additional funds become available in making such payments in any fiscal year during which the second and third sentence of this paragraph are applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) Ten per centum of the funds appropriated for this part shall be available for carrying out section 116.

(b) If, in any fiscal year, a State does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

(20 U.S.C. 1012) Enacted Nov. 8, 1965, P.L. 89-329, sec. 109, 79 Stat. 1223; subsections (d) and (e) repealed April 13, 1970, P.L. 91-320, sec. 401(h) and superseded by Part C of Title IV of P.L. 90-247 as amended; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; renumbered, May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 54; amended August 21, 1974, P.L. 93-380, sec. 831, 88 Stat. 603; renumbered and amended October 12, 1976, P.L. 94-482, sec. 101(e), sec. 101(f)(1)(A) and (f)(1)(B), sec. 1019(g)(2), 90 Stat. 2085, 2086; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1377.

COMPREHENSIVE STATEWIDE PLANNING

SEC. 113. (a)(1) Subject to paragraphs (2) and (3), each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between grants and contracts awarded under this part and comprehensive statewide planning for postsecondary education.

(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to insure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Carl D. Perkins Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education

Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (a) and (c) of this section.

(20 U.S.C. 1013) Enacted Nov. 8, 1965, P.L. 89–329, sec. 110, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92–318, sec. 102(a)(1), 86 Stat. 236; renumbered May 3, 1973, P.L. 93–29, sec. 803, 87 Stat. 59; renumbered and amended October 12, 1976, P.L. 94–482, sec. 101(e) and sec. 101(f)(2), 90 Stat. 2085, 2086; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1378; amended October 19, 1984, P.L. 98–524, sec. 4(c)(1), 98 Stat. 2488.

INFORMATION SERVICES

Sec. 114. (a) Each State shall use not less than $50,000 nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Carl D. Perkins Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

(c) For the purposes of carrying out this section, each State may make grants to, and enter into contracts with, institutions of higher education, public and private institutions and organizations, business, industry, and labor, or any combination thereof.

(20 U.S.C. 1014) Enacted Nov. 8, 1965, P.L. 89–329, sec. 111, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92–318, sec. 102(a)(1), 86 Stat. 236; amended June 23, 1972, P.L. 92–318, sec. 131(d)(2), 86 Stat. 260; renumbered May 3, 1973, P.L. 93–29, sec. 803, 87 Stat. 59, renumbered October 12, 1976, P.L. 94–482, sec. 101(e), 90 Stat. 2085; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1378; amended October 19, 1984, P.L. 98–524, sec. 4(c)(2), 98 Stat. 2488.

CONTINUING EDUCATION

Sec. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this part.

(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs, such as—

(1) the creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

(2) the removal of barriers to continuing education caused by rural isolation or other rural-related factors;

(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

(7) community education service activities consistent with the purpose of this section for adults in rural areas;

(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school;

(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education and the labor force; and

(10) the promotion or delivery of postsecondary education services to women at the place of their employment or in conjunction with their employment.

(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that—

(1) the State will provide assurances that the State has established a cooperative agreement between the State entity responsible for planning under section 113 and the agency responsible for coordinating child care services within the State; and

(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section or $40,000, whichever is greater, for the administration and operation of programs described in subsection (b) of this section.

(20 U.S.C. 1015) Enacted October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1380.

FEDERAL DISCRETIONARY GRANTS

SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which—

(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

(3) promote the development of interstate educational delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

(6) assist States to perform their functions of authorizing institutions of higher education effectively; and

(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203, if applicable, an opportunity to comment on the relationship of the proposed grant to such planning.

(20 U.S.C. 1016) Enacted October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1381.

NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

(20 U.S.C. 1017) Enacted October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1382.

DEFINITIONS

SEC. 118. For the purposes of this subpart—

(1) the term "Commission" means the Commission on National Development in Postsecondary Education established under section 102;

(2) the term "Advisory Council" means the National Advisory Council on Continuing Education established under section 117;

(3) the term "adults whose educational needs have been inadequately served" means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

(4) the term "continuing education" means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

(5) the term "adult population" means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(20 U.S.C. 1018) Enacted October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1382.

APPROPRIATIONS AUTHORIZED AND PAYMENTS

SEC. 119. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1981; $30,000,000 for fiscal year 1982; $40,000,000 for fiscal year 1983; $50,000,000 for fiscal year 1984; and $60,000,000 for fiscal year 1985 to carry out the provisions of this part.

(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this part. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

(c) Each State is authorized to use not more than 50 per centum of the funds provided under section 113 for the purpose of carrying out programs under section 115.

(20 U.S.C. 1019) Enacted October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1382.

TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

PURPOSE; AUTHORIZATION

SEC. 201. (a) The Secretary shall carry out a program to assist—

(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

(2) in the training of persons in librarianship and to encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

(4) the establishment of a National Periodical System Corporation, in accordance with part D.

(b)(1)(A) There are authorized to be appropriated to carry out part A $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

(B) There are authorized to be appropriated to carry out part B $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

(C) There are authorized to be appropriated to carry out part C $10,000,000 for the fiscal year 1981, $15,000,000 for the fiscal year 1982 and each of the three succeeding fiscal years.

(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(20 U.S.C. 1021) Enacted Nov. 8, 1965, P.L. 89–329, sec. 201, 79 Stat. 1224; amended Oct. 16, 1968, P.L. 90–575, sec. 211, 82 Stat. 1036; amended June 23, 1972, P.L. 92–318, sec. 111(b)(1), 86 Stat. 238; amended October 12, 1976, P.L. 94–482, sec. 106, 90 Stat. 2089; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384.

NOTIFICATION OF STATE AGENCY

SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

(20 U.S.C. 1022) Enacted Nov. 8, 1965, P.L. 89–329, sec. 202, 79 Stat. 1224; amended Nov. 3, 1966, P.L. 89–752, sec. 9, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90–575, sec. 214, 82 Stat. 1037; amended June 23, 1972, P.L. 92–318, sec. 111(b)(2)(A), 86 Stat. 238; amended and redesignated June 23, 1972, P.L. 92–318, sec. 112, 86 Stat. 240; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384.

PART A—COLLEGE LIBRARY RESOURCES

RESOURCE DEVELOPMENT GRANTS

SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

(b) A grant under this part may be made only if the application provides—

(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term "very unusual circumstances" means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

(d) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance networks for sharing library resources with other institutions of higher education.

(20 U.S.C. 1029) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384.

PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

GRANTS AUTHORIZED

SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section.

(20 U.S.C. 1031) Enacted June 23, 1972, P.L. 92–318, sec. 111(b)(3)(A), 86 Stat. 239; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1385.

LIBRARY CAREER TRAINING

SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

(20 U.S.C. 1032) Enacted Nov. 8, 1965, P.L. 89-329, sec. 223, 79 Stat. 1227; amended Oct. 16, 1968, P.L. 90-575, sec. 216, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, sec. 111(b)(3) (B) and (K); redesignated by P.L. 92-318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385.

RESEARCH AND DEMONSTRATIONS

SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, and information technology, and for the dissemination of information derived from such projects.

(20 U.S.C. 1033) Enacted Nov. 8, 1965, P.L. 89-329, sec. 224, 79 Stat. 1228; subsec. (c) repealed Apr. 13, 1970, P.L. 91-230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90-247, as amended. (20 U.S.C. 1233c.); redesignated June 23, 1972, P.L. 92-318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385.

SPECIAL PURPOSE GRANTS

SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) institutions of higher education which demonstrate a need for special assistance to develop or expand programs or projects that will service the communities in which the institutions are located.

(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) the applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

(20 U.S.C. 1034) Enacted October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385.

PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

ELIGIBILITY FOR ASSISTANCE

SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

(2) For the purposes of this part, the term "major research library" means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

(A) makes a significant contribution to higher education and research;

(B) is broadly based and is recognized as having national or international significance for scholarly research;

(C) is of a unique nature, and contains material not widely available; and

(D) is in substantial demand by researchers and scholars not connected with that institution.

(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 or 224 for that year.

(20 U.S.C. 1041) Enacted Nov. 8, 1965, P.L. 89-329, sec. 231, 79 Stat. 1228; amended Oct. 16, 1968, P.L. 90-575, sec. 217, 218, 82 Stat. 1037-1038; amended June 23, 1972, P.L. 92-318, sec. 114, 86 Stat. 240; amended Oct. 12, 1976, P.L. 94-482, sec. 107, 90 Stat. 2090; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386.

GEOGRAPHICAL DISTRIBUTION OF GRANTS

SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

(20 U.S.C. 1042) Enacted June 23, 1972, P.L. 92-318, sec. 115(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, sec. 107, 90 Stat. 2090; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386.

PART D—NATIONAL PERIODICAL SYSTEM

PURPOSE

SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

(20 U.S.C. 1047) Enacted October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386.

ESTABLISHMENT

SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

(20 U.S.C. 1047a) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1387.

FUNCTIONS OF THE CORPORATION

SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248.

(b) Any design for a national periodical system shall include provisions for such system to—

(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation; and

(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

(20 U.S.C. 1147b) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1387.

BOARD OF DIRECTORS

SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

(f) Eight members of the Board shall constitute a quorum.

(g) The Board shall elect annually one of its members to serve as the Chairman.

(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

(20 U.S.C. 1047c) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1387.

DIRECTOR AND STAFF OF CORPORATION

SEC. 245. (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manage the operations of the Corporation, subject to such rules as may be prescribed by the Board.

(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

(20 U.S.C. 1047d) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1388.

NONPROFIT NATURE OF CORPORATION

SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any ereof, or by any State, county, municipality, or local taxing authority.

(20 U.S.C. 1047e) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1388.

AUTHORITY OF CORPORATION

SEC. 247. (a) The Corporation is authorized to—

(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(3) lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243. For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation shall be a gift, bequest, or devise to the United States.

(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

(20 U.S.C. 1047f) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1388.

IMPLEMENTING THE DESIGN

SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design.

(20 U.S.C. 1047g) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1389.

COPYRIGHT ACT

SEC. 249 Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights

(20 U.S.C. 1047h) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1389.

DEFINITIONS

SEC. 250. As used in this part—

(1) the term "access" means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

(2) the term "Board" means the Board of Directors of the National Periodical System Corporation;

(3) the term "comprehensive collection" means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

(4) the term "copyright owner" means the owner of any one of the exclusive rights comprised in a copyright;

(5) the term "Corporation" means the National Periodical System Corporation established under this part;

(6) the term "dedicated collection" means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

(7) the term "document" means any portion or the entire issue of a periodical;

(8) the term "periodical" means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

(9) the term "private sector" means nongovernmental, nonprofit, and for-profit organizations.

(20 U.S.C. 1047i) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1389.

AUTHORIZATION OF APPROPRIATIONS

SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years 1981 and 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, and 1985.

(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.

(20 U.S.C. 1047j) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1390.

TITLE III—INSTITUTIONAL AID

FINDINGS AND PURPOSES

SEC. 301. (a) The Congress finds that—

(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to

an inability to engage in long-range planning, recruitment activities, and development activities;

(3) the solution of the problems of these institutions would enable them to become viable, thriving institutions of higher education; and

(4) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations.

(b) It is the purpose of this title to assist such institutions through a program of Federal assistance.

(20 U.S.C. 1051) Enacted June 23, 1972, P.L. 92-318, sec. 121(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, sec. 111, 90 Stat. 2091; amended October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1390.

PART A—STRENGTHENING INSTITUTIONS

PROGRAM PURPOSE

SEC. 311. (a) The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) From the sums available for this part under section 347(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

(1) faculty development;

(2) funds and administrative management;

(3) development and improvement of academic programs;

(4) acquisition of equipment for use in strengthening funds management and academic programs;

(5) joint use of facilities such as libraries and laboratories; and

(6) student services.

(20 U.S.C. 1057) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1391.

DEFINITIONS

SEC. 312. For purposes of this part:

(1) The term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures for physical plant, and any mandatory transfers which the institution is required to pay by law.

(2) The term "eligible institution" means—

(A) an institution of higher education—

(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of part A of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions;

(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

(II) met the requirement of clause (iv); and

(vi) meets such other requirements as the Secretary may prescribe; or

(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) The term "full-time equivalent students" means the sum of the numberof students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) at such institution.

(4) The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(20 U.S.C. 1058) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1391.

DURATION OF GRANT

SEC. 313. (a) The Secretary may award a grant to an eligible institution under this part for—

(1) not to exceed three years, or

(2) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of an eligible institution for a grant under both paragraphs (1) and (2) for a fiscal year.

(b) The Secretary shall not award a grant under this part to an eligible institution that has, for any prior fiscal year, received a grant under subsection (a)(2).

(c) Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this part.

(20 U.S.C. 1059) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1392.

PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

PROGRAM PURPOSE

SEC. 321. (a) The purpose of this part is to provide for a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs.

(b) From the sums available for this part under section 347(a)(1), the Secretary may make grants to any institution with special needs with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include—

(1) faculty development;

(2) funds and administrative management;

(3) development and improvement of academic programs;

(4) acquisition of equipment for use in strengthening funds management and academic programs;

(5) joint use of facilities such as libraries and laboratories; and

(6) student services.

(20 U.S.C. 1060) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1393.

DEFINITIONS

SEC. 322. (a) For purposes of this part:

(1) The term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

(2) The term "institution with special needs" means—

(A) an institution of higher education—

(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV of this Act, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions;

(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

(II) met the requirement of clause (iv);

(vi) has an enrollment of not less than 100 full-time equivalent students in the academic year for which the determination is made; and

(vii) meets such other requirements as the Secretary may prescribe; or

(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i), (ii), and (vi) of such subparagraph and which is located in a community different from that in which its parent institution is located.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given the same weight as the factor described under subparagraph (A)(ii), and the Secretary may also consider the factors specified under subsection (b) of this section.

(3) The term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve).

(4) The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(b) In determining whether an institution is an institution with special needs under subsection (a)(2), the Secretary may also consider the following factors:

(1) extreme financial limitations requiring low faculty salaries, low costs of instruction for students, and low library expenditures;

(2) a little or no endowment, whether or not unrestricted;

(3) a high student to faculty ratio;

(4) a substantial percentage of students receiving need-based Federal student assistance;

(5) limited library resources;

(6) a low percentage of faculty with doctorate degrees;

(7) poor physical facilities and limited resources to maintain physical facilities;

(8) little or no support from foundations, alumni, or corporations;

(9) limited or no sponsored research or faculty publications;

(10) inadequate development offices and a limited capacity for long-range planning; and

(11) poor or inadequate fiscal management and accounting procedures.

(20 U.S.C. 1061) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1393.

DURATION OF GRANT

SEC. 323. The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year.

(20 U.S.C. 1062) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395.

FEDERAL SHARE

SEC. 324. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant.

(20 U.S.C. 1063) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395.

PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

SEC. 331. (a)(1) From the sums available under section 347(a)(2) for each fiscal year, the Secretary may award a challenge grant to each institution—

(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

(B) which is an institution with special needs under part B or would be considered to be such an institution if section 322(a)(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or

(C) which is an institution of higher education which includes a substantial number of minority and educationally disadvantaged students, which provides a medical education program which leads to a doctor of medicine degree or which is not less than a two year program fully acceptable toward such a degree, and which in fiscal year 1980 received a grant as a two year medical school under section 788(a) of the Health Professions Educational Assistance Act of 1976.

(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) The Secretary may make a grant under this section for a period of not more than 5 years. A grant under this section may be used for the programs and activities described in part A or part B, as the case may be.

(20 U.S.C. 1064) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395; amended August 13, 1981, P.L. 97-35, sec. 516(c)(2), 95 Stat. 447.

APPLICATIONS FOR CHALLENGE GRANTS

SEC. 332. (a) Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 341, except that the application for the purpose of this part shall—

(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

(3) in the case of an application by an institution described under section 331(a)(1)(B), demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 322(b) (1) through (11), and lead to greater financial independence.

(b) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this part, the Secretary shall determine which institutions will receive challenge grants under this part and notify the institutions of the amount of the grant.

(c) In approving applications for grants under this part, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

(20 U.S.C. 1065) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1396.

ENDOWMENT GRANTS

SEC. 333. (a)(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fundraising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For purposes of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(b)(1) From sums available for this section under section 347, the Secretary is authorized to award endowment grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

(2) No institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(3)(A) The period of a grant under this section shall be not more than twenty years.

(B) During the grant period, an institution may not withdraw or expend any of the endowment fund corpus.

(C) After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

(B) No institution shall be ineligible for an endowment grant for a fiscal year by reason of the previous receipt of such a grant, but no institution shall be eligible to receive such a grant for more than two fiscal years out of any period of five consecutive fiscal years.

(5) An endowment grant under this section to an eligible institution year shall—

(A) not be less than $50,000 for any fiscal year; and

(B) not be more than (i) $250,000 for fiscal year 1984; or (ii) $500,000 for fiscal year 1985 or any succeeding fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulations;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulations, including any monetary liability that may arise as a result of such violation.

(c)(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 per centum of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) another unusual occurrence or exigent circumstance.

(d)(1) If at any time an institution withdraws part of the endowment fund corpus, it shall repay to the Secretary an amount equal to 50 per centum of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the grantee shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

(e) An institution receiving a grant under this section shall provide to the Secretary (or his designee) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section; and

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution;

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h)(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of the original grant or grants under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing endowment grants, to other eligible institutions.

(20 U.S.C. 1065a) Enacted September 26, 1983, P.L. 98–95, sec. 2, 97 Stat. 708.

PART D—GENERAL PROVISIONS

APPLICATIONS FOR ASSISTANCE

SEC. 341. (a) Any institution which is eligible for assistance under this title may submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

(b) An institution, in its application for a grant, shall—

(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 321(b), and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 346;

(7) include such other information as the Secretary may prescribe; and

(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

(A) a description of the various components of the development project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

(20 U.S.C. 1066) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1396.

WAIVER AUTHORITY AND REPORTING REQUIREMENT

SEC. 342. (a)(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A or as an institution with special needs under part B (as the case may be) is otherwise consistent with the purposes of such parts.

(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), have been determined to be eligible institutions under part A or institutions with special needs under part B, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), as the case may be; and

(B) contain a list of each institution determined to be an eligible institution under part A or as an institution with special needs under part B and include a statement of the reasons for each such determination.

(b) The Secretary may waive the requirement set forth in sections 312(2)(v) and 322(a)(2)(v) in the case of an institution—

(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural

areas, whose needs are for the most part unserved by other postsecondary education institutions;

(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

(20 U.S.C. 1067) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1398.

APPLICATION REVIEW PROCESS

Sec. 343. (a)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall insure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 321(b) that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(b) In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

(1) the scores given the applicant by the panel pursuant to this section,

(2) the recommendations of the panel with respect to such application, and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(20 U.S.C. 1068) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1398.

COOPERATIVE ARRANGEMENTS

Sec. 344. (a) The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B;

for the activities described in section 311(b) or section 321(b), as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts.

(b) The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

(c) Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or 323, as the case may be.

(20 U.S.C. 1069) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1399.

ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

SEC. 345. (a) Each institution which the Secretary determines to be an eligible institution under part A or an institution with special needs under part B shall be eligible for waivers in accordance with subsection (b).

(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

(20 U.S.C. 1069a) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1399.

LIMITATIONS

SEC. 346. The funds appropriated under section 347 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than those set forth in the approved application under which the funds were made available to the institution.

(20 U.S.C. 1069b) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1400.

AUTHORIZATIONS

SEC. 347. (a)(1) There are authorized to be appropriated to carry out parts A and B $175,000,000 for the fiscal year 1982, $185,000,000 for the fiscal year 1983, $200,000,000 for the fiscal year 1984, and $220,000,000 for the fiscal year 1985. Of the amounts appropriated under this paragraph for each fiscal year, 50 per centum shall be made available to carry out part A and 50 per centum shall be made available to carry out part B.

(2) There are authorized to be appropriated to carry out part C $25,000,000 for the fiscal year 1982, $35,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $50,000,000 for the fiscal year 1985. Of the amount appropriated for such part for fiscal year 1984, 20 per centum shall be available for grants under section 333 of such part, and of the amount appropriated for such part for fiscal year 1985, 100 per centum shall be available for grants under such section[1]

(b) In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(c)(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available to use for the purposes of each such part—

(A) not less than 24 per centum to institutions that are junior or community colleges, and

(B) the remainder to institutions that plan to award a bachelor's degree during that year.

(2) Of the sums appropriated under subsection (a)(1) for any fiscal year for part B, the Secretary shall make available to use for the purposes of each such part—

(A) not less than 30 per centum to institutions that are junior or community colleges, and

(B) the remainder to institutions that plan to award a bachelor's degree during that year.

(d) Of the sums appropriated under subsection (a)(1) for the purpose of part A for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 313(a)(2). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

(e) The Secretary shall assure that in each fiscal year the amount available under part B for institutions with special needs that historically serve substantial numbers of black students will not be less than 50 per centum of the amount received by such institutions for fiscal year 1979.

(f)(1) For each fiscal year, the Secretary shall reserve from the amount appropriated for part B such sums as may be necessary to fund continuation awards for multiple year grants awarded to institutions under section 331 prior to October 1, 1983.

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[1] Concluding period is missing. See Public Law 98-95 (97 Stat. 711).

(2) For each fiscal year, the Secretary may reserve from the amount appropriated for part B, not more than an amount equal to the difference between the amount awarded under paragraph (1) and the amount equal to the aggregate amount institutions receiving grants under part B would contribute under section 324 to the cost of their grants in that fiscal year assuming their grant amounts are the same as those received in the prior fiscal year. The Secretary may use this amount to award grants to eligible institutions under section 333.

(3) In reserving and awarding funds under this subsection, the Secretary shall assure in each fiscal year that the funds that would have been reserved under part B for institutions described in subsection (c) or (e) shall be reserved under section 331 or 333 for those institutions.

(20 U.S.C. 1069c) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1400; amended Sept. 26, 1983, P.L. 98-95, sec. 3, 97 Stat. 711; amended June 12, 1984, P.L. 98-312, sec. 1, 98 Stat. 233.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

SEC. 401. (a) It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

(1) providing basic educational opportunity grants (hereinafter referred to as "basic grants") to all eligible students;

(2) providing supplemental educational opportunity grants (hereinafter referred to as "supplemental grants") to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) The Secretary shall, in accordance with subparts 1, 2, 3, 4, and 5, carry out programs to achieve the purposes of this part.

(20 U.S.C. 1070) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 247-248; amended June 23, 1972, P.L. 92-318, sec. 1001(c), 86 Stat. 381; amended October 3, 1980, P.L. 96-374, sec. 401, 1391, 94 Stat. 1401, 1503.

Subpart 1—Basic Educational Opportunity Grants [1]

BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

Sec. 411. (a)(1)(A) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1985, pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

(B) The purpose of this subpart is to provide a basic grant that (i) as determined under paragraph (2), will meet in academic year 1985–1986, 70 per centum of a student's cost of attendance not in excess of $3,700; and (ii) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

(C) Basic grants made under this subpart shall be known as "Pell Grants".

(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

(I) $1,900 for academic year 1981–1982,
(II) $2,100 for academic year 1982–1983,
(III) $2,300 for academic year 1983–1984,
(IV) $2,500 for academic year 1984–1985, and
(V) $2,600 for academic year 1985–1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.

(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than January 1, 1981, October 1, 1981, and on October 1 of each succeeding year.

(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

(I) 50 per centum of the cost of attendance (as defined under section 482(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than or equal to $1,900;

(II) 55 per centum of such cost of attendance when the maximum basic grant is more than $1,900 but is less than $2,100;

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[1] For special provisions concerning academic years beginning with 1983–1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,300;

(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,300 but is less than $2,600; and

(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,600.

(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance at the institution at which that student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

(iii) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Secretary by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less then $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.

(b)(1) The Secretary shall from time to time set dates by which students must file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Secretary may deem necessary to enable him to carry out his functions and responsibilities under this subpart.

(3)(A) Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section.

(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

(I) the full amount for any student whose expected family contribution is $200 or less, or

(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.

(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 per centum, then all of such funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

(5)(A) For any fiscal year ending prior to October 1, 1985, if—

(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $370,000,000,

(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,800 on the basis of entitlements established under this subpart in excess of such amount.

(B) For any fiscal year ending prior to October 1, 1985, if—

(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $400,000,000,

(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and

468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $1,899 on the basis of entitlements established under this subpart in excess of such amount.

(C) For any fiscal year ending prior to October 1, 1985, if—

(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $440,000,000,

(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,099 on the basis of entitlements established under this subpart in excess of such amount.

(D) For any fiscal year ending prior to October 1, 1985, if—

(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $460,000,000,

(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made in excess of $2,299 on the basis of entitlements established under this subpart in excess of such amount.

(E) For any fiscal year ending prior to October 1, 1985, if—

(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $480,000,000,

(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not equal at least $550,000,000, and

(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year,

no payment may be made equal to or in excess of $2,500 on the basis of entitlements established under this subpart which are equal to or in excess of such amount.

(c) Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

(20 U.S.C. 1070(a)) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 247–251; amended June 30, 1976, P.L. 94–328, sec. 2(f), 90 Stat. 727; amended October 12, 1976, P.L. 94–482, sec. 121, 90 Stat. 2091, 2092, 2093, 2094; amended June 15, 1977, P.L. 95–43, sec. 1(a)(5)(A), (a)(5)(B), 91 Stat. 213; amended November 1, 1978, P.L. 95–566, sec. 2, 92 Stat. 2402, 2403; amended October 3, 1980, P.L. 96–374, sec. 402, 1391, 94 Stat. 1401–1404, 1503; amended October 13, 1982, P.L. 97–301, sec. 8(a), 96 Stat. 1402.

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS [1]

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 413A. (a) It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of section 482.

(b)(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(b), for use by such institutions for payments to undergraduate students for the initial academic year of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated

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[1] For special provisions concerning academic years beginning with 1983–1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

$200,000,000 for the fiscal year ending June 30, 1973, and for each of the succeeding fiscal years ending prior to October 1, 1980, and $350,000,000 for the fiscal year 1981, and for each of the succeeding fiscal years ending prior to October 1, 1985. Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (2).

(2) In addition to the sums authorized to be appropriated by paragraph (1), there are authorized to be appropriated such sums as may be necessary for payment to institutions of higher education for use by such institutions for making continuing supplemental grants under this subpart, except that no appropriation may be made pursuant to this paragraph for any fiscal year beginning more than three years after the last fiscal year for which an appropriation is authorized under paragraph (1). Funds appropriated pursuant to this paragraph shall be appropriated separate from any funds appropriated pursuant to paragraph (1).

(3) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

(4) For the purposes of this subsection, payment for the first year of a supplemental grant shall not be considered as an initial year payment if the grant was awarded for the continuing education of a student who—

(A) had been previously awarded a supplemental grant under this subpart (whether by another institution or otherwise), and

(B) had received payment for any year of that supplemental grant.

(20 U.S.C. 1070b) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 251, 252; amended October 12, 1976, P.L. 94-482, sec. 122(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 403, 1391, 94 Stat. 1404, 1405, 1503.

AMOUNT AND DURATION OF GRANTS

SEC. 413B. (a)(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall for each year, pay to that student an amount determined pursuant to paragraph (2).

(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed $2,000.

(B) If the amount determined under division (i) of subparagraph (A) with respect to a student for any academic year is less than $200, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.

(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

(20 U.S.C. 1070b–1) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 252, 253; amended October 3, 1980, P.L. 96–374, sec. 403, 94 Stat. 1405.

SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484.

(b) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a).

(20 U.S.C. 1070b–2) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 253, 254; amended October 12, 1976, P.L. 94–482, sec. 122(b), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 403(d), 94 Stat. 1405.

APPORTIONMENT AND ALLOCATION OF FUNDS [1]

SEC. 413D. (a)(1)(A) From 90 per centum of the sums appropriated pursuant to section 413A(b)(1) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to such sums as the number of undergraduates enrolled full time and the full time equivalent of the number of undergraduates enrolled part time in institutions of higher education in such State bears to the total number of such undergraduates in all States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 401(b) of this Act for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

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[1] For special provisions concerning academic years beginning with 1983–1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(B) If the Secretary determines that the sums apportioned to any State under subparagraph (A) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Secretary shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Secretary determines will best assist in achieving purposes of this subpart.

(2) Sums appropriated pursuant to section 413A(b)(2) for any fiscal year shall be apportioned among the States in such manner as the Secretary determines will best achieve the purposes for which such sums were appropriated.

(b)(1)(A) The Secretary shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a)(1).

(B)(i) From the sums apportioned (or reapportioned) to any State, the Secretary shall allocate amounts to institutions which have submitted applications pursuant to subparagraph (A).

(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under this subpart by subtracting from 75 per centum of total student expenses the sum of expected family or independent student contributions, awards made under subparts 1 and 3 of this part, and 25 per centum of grants and awards made by the institution from its own resources. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than—

(I) 100 per centum of the amount such institution received and used under this section for fiscal year 1979 in the case of any fiscal year for which the appropriation for this part is less than $400,000,000;

(II) 80 per centum of such amount in the case of any fiscal year for which such appropriation is at least $400,000,000 but less than $420,000,000;

(III) 60 per centum of such amount in the case of any fiscal year for which such appropriation is at least $420,000,000 but less than $440,000,000;

(IV) 40 per centum of such amount in the case of any fiscal year for which such appropriation is at least $440,000,000 but less than $460,000,000; or

(V) 20 per centum of such amount in the case of any fiscal year for which such appropriation is at least $460,000,000 but less than $480,000,000.

(2) The Secretary shall, in accordance with regulations, allocate to such institutions in any State, from funds apportioned or reapportioned pursuant to subsection (a)(2), funds to be used as the supplemental grants specified in section 413A(b)(2). Such allocation shall be made in accordance with the formula prescribed by regulation under division (ii) of paragraph (1)(B) of this subsection.

(3) Each institution receiving allocations under this subsection from apportionments made to the State under subsection (a)(1) and under subsection (a)(2) may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.

(4) Payments shall be made from allocations under this subsection as needed.

(20 U.S.C. 1070b–3) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 254, 255; amended October 3, 1980, P.L. 96–374, sec. 403, 1351, 94 Stat. 1405, 1503.

SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education.

(b)(1) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year 1985, for payments to the States for grants to eligible students under this subpart.

(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(20 U.S.C. 1070c) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 255, 256; amended October 12, 1976, P.L. 94–482, sec. 123(a) and 123(c)(1), 90 Stat. 2094; amended June 15, 1977, 95–43, sec. 1(b)(3), 91 Stat. 218; amended October 3, 1980, P.L. 96–374, sec. 404(a), 94 Stat. 1406.

ALLOTMENT AMONG STATES

SEC. 415B. (a)(1)(A) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students in attendance at institutions of higher education in such State bears to the total number of such students in such attendance in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(B) For the purposes of this paragraph, the number of students in attendance at institutions of higher education in a State and in all the States shall be determined by the Secretary for the most recent year for which satisfactory data are available to him.

(2) The amount of any State's allotment under paragraph (1) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under paragraph (1) for such year.

(b) Subject to the provisions of section 415E, sums appropriated pursuant to section 415A(b)(2) for any fiscal year shall be allotted among the States in such manner as the Secretary determines will best achieve the purposes for which such sums were appropriated.

(c) The Secretary shall make payments for continuing incentive grants only to those States which continue to meet the requirements of section 415C(b) (1), (2), (3), and (5).

(20 U.S.C. 1070c-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 256; amended October 12, 1976, P.L. 94-482, sec. 123(c)(2), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 404(b), 1397, 94 Stat. 1407, 1503.

APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

SEC. 415C. (a) A State which desires to obtain a payment under this subpart for any fiscal year shall have a State agreement pursuant to section 1203 and shall submit an application therefor through the State agency administering its program of student grants, at such time or times, and containing such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying 50 per centum of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency under section 1203;

(2) provides that such grants will be in amounts not in excess of $2,000 per academic year for attendance on a full-time basis at an institution of higher education;

(3) provides for the selection of recipients of such grants on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

(4) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participa-

tion of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(5) provides for the payment of the non-Federal portion of such grants from funds supplied by such State which represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(6) provides that institutions of higher education, with the approval of the State agency, may use any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(a)(2);

(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years; and

(8) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart.

(c) Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students incentive grants covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as he may determine. The Secretary reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants with respect to which such reservation was made, and in the event of an upward revision of such estimated cost approved by him he may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(20 U.S.C. 1070c–2) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 256, 257; amended October 12, 1976, P.L. 94–482, sec. 123(b), 90 Stat. 2094; amended June 15, 1977, P.L. 95–43, sec. 1(a)(6), 91 Stat. 213; amended November 1, 1978, P.L. 95–566, sec. 3, 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, sec. 404(c), 1391, 94 Stat. 1407, 1503.

ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 415D. (a)(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1070c-3) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 257, 258; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1982 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

(d) For the purposes of this subpart—

(1) the term "first generation college student" means a person neither of whose parents completed a baccalaureate degree; and

(2) the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age.

(20 U.S.C. 1070d) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 258; amended October 12, 1976, P.L. 94-482, sec. 124(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1407.

TALENT SEARCH

SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

(c) In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of

age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

(20 U.S.C. 1070d-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 258, 259; amended August 21, 1974, P.L. 93-380, sec. 833, 88 Stat. 602, 604; amended October 12, 1976, P.L. 94-482, sec. 124, 90 Stat. 2094, 2095, 2096; amended November 1, 1978, P.L. 95-566, sec. 4, 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1408.

UPWARD BOUND

SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

(b) Any upward bound project assisted under the subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in high school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs; and

(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

(20 U.S.C. 1070d–1a) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1409.

SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

SEC. 417D. (a) The Secretary shall carry out a program to be known as special services for disadvantaged students (hereinafter referred to as "special services") which shall be designed to provide supportive services to persons participating in the projects.

(b) A special services project assisted under this subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

(c) In approving applications for special services projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be physically handicapped, or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

(d) In approving applications for special services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

(20 U.S.C. 1070d–1b) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1410.

EDUCATIONAL OPPORTUNITY CENTERS

SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

(20 U.S.C. 1070d–1c) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1410.

STAFF DEVELOPMENT ACTIVITIES

SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(20 U.S.C. 1070d-1d) Enacted October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1411.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include—

(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success beyond high school, and in preparation for the examination for a certificate of high school equivalency;

(2) personal and academic counseling;

(3) outreach and recruitment, special admissions, and financial assistance;

(4) tutorial services;

(5) career-oriented work study;

(6) housing support and on-campus residential programs;

(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmwork students at the secondary and postsecondary levels.

(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.

(20 U.S.C. 1070d-2d) Enacted October 3, 1980, P.L. 96-374, sec. 406, 94 Stat. 1411.

Subpart 6—Federal Merit Scholarships

STATEMENT OF PURPOSE

SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(20 U.S.C. 1070d-31) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900.

DEFINITION

SEC. 419B. For the purpose of this subpart—

(1) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(20 U.S.C. 1070d-32) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900.

SCHOLARSHIPS AUTHORIZED

Sec. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

(20 U.S.C. 1070d-33) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900.

ALLOCATION AMONG STATES

Sec. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G(b),

plus

(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

(20 U.S.C. 1070d-34) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901.

AGREEMENTS

Sec. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

(20 U.S.C. 1070d–35) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901.

ELIGIBILITY OF MERIT SCHOLARS

SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(20 U.S.C. 1070d–36) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901.

SELECTION OF MERIT SCHOLARS

SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(20 U.S.C. 1070d–37) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(20 U.S.C. 1070d–38) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2902.

AWARDS CEREMONY

SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

(20 U.S.C. 1070d-39) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2902.

CONSTRUCTION OF NEEDS PROVISIONS

SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

(20 U.S.C. 1070d-40) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902.

AUTHORIZATION OF APPROPRIATIONS

SEC. 419K. There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.".

(20 U.S.C. 1070d-41) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902.

SUBPART 7—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION [1]

PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 420. (a) Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

(b)(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

(2)(A)(i) The Secretary shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.

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[1] Sec. 1001(d) of P.L. 92-318 provides as follows:

"(d) The total of the payments made under subpart 5 of part A of title IV, of the Higher Education Act of 1965 (except section 420) and under part F of title IX of such Act may not exceed $1,000,000,000 during any fiscal year."

If the total number of students in attendance is—	The amount of the grant is—
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000

(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to the student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(B)(i) The Secretary shall determine with respect to each institution an amount equal to the appropriate per centum (specified on the table below) of the aggregate of—

(I) supplemental educational opportunity grants under subpart 2;

(II) work-study payments under part C; and

(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Secretary shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 per centum.
Over 1,000 but not over 3,000	46 per centum.
Over 3,000 but not over 10,000	42 per centum.
Over 10,000	38 per centum.

(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Secretary shall compute the full-time equivalent of part-time students.

(B) The Secretary shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

(c)(1) An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

(A) set forth such policies, assurances, and procedures as will insure that—

(i) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation; and

(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States.

(d)(1) The Secretary shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and on the basis of entitlements established part F of title IX—

(A) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

(B) 45 per centum shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

(C) 10 per centum shall be available for making payments on the basis of entitlement established under part F of title IX.

(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 per centum of the appropriation necessary for satisfying the total of all entitlements established under

such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

(20 U.S.C. 1070e) Enacted June 23, 1972, P.L. 92-318, sec. 1001(a), 86 Stat. 375, 378; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; redesignated October 30, 1984, P.L. 98-558, sec. 801(b)(1), 98 Stat. 2902.

VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 420A. (a)(1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

(B) the number of such persons is at least 25.

(2) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such academic year, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

(3) For any fiscal year beginning after September 30, 1980, the Secretary may waive the provisions of paragraph (1) of this subsection for any institution of higher education which has qualified for payment under this section for any preceding fiscal year but subsequently became ineligible, if—

(A) the institution would have been eligible had section 420(a)(2) been in effect when such institution became ineligible,

(B) the institution has had a full-time office of veterans' affairs since that institution was so eligible, and

(C) the appropriations made available in any such fiscal year for this section are in excess of (i) $14,380,000, or (ii) the amount requested for carrying out this section in the budget of the President submitted under section 201 of the Budget and Accounting Act, 1921, whichever is greater, by an amount sufficient to make payments to all institutions meeting the requirements of clauses (A) and (B) of this paragraph.

(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and

(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs.

(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

(A) set forth such policies, assurances, and procedures as will insure that—

(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38, and

(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the veterans employment and training initiatives authorized under the Comprehensive Employment and Training Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the "Administrator"), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (C)(i) of paragraph (1) of subsection (c), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 per centum requirement shall be used for implementing the requirements of subclauses (ii) through (v) of clause (C) of such paragraph (1), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

(f) The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.

(20 U.S.C. 1070e-1) Enacted June 23, 1972, P.L. 92-318, sec. 1001(a), 86 Stat. 378, 379; amended August 21, 1974, P.L. 93-380, sec. 835, 88 Stat. 604, 605; amended October 12, 1976, P.L. 94-482, sec. 126, 90 Stat. 2098; amended Aug. 4, 1978, P.L. 95-

336, sec. 6, 92 Stat. 453; amended October 3, 1980, P.L. 96-374, sec. 407, 94 Stat. 1412; redesignated October 30, 1984, P.L. 98-558, sec. 801(b)(2), 98 Stat. 2902.

PART B—FEDERAL, STATE, AND PRIVATE PROGRAMS OF LOW-INTEREST INSURED LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a)(1) The purpose of this part is to enable the Secretary (1) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435), (2) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b)(3), to pay a portion of the interest on loans to qualified students which are made by a State under a direct loan program meeting the requirements of section 428(a)(1)(B), or which are insured under this part or under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C), and (4) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(C).

(2) No institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex or marital status, age, or handicapped status.

(b) For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor.

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs.

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to State and non-

profit institutions and organizations with which the Secretary has an agreement under section 428(b).

Sums appropriated under clauses (1), (2), (4), and (5) of this subsection shall remain available until expended, and sums appropriated under clause (3) of this subsection shall remain available for advances under section 422 until the close of the fiscal year ending June 30, 1968.

(c) For purposes of carrying out this part—

(1) the Secretary shall develop and execute a plan designed to encourage the establishment of student [sic] loan insurance program by each State (whether operated by an agency of the State or by a nonprofit private institution or organization designated by the State) which does not have such a program covered by an agreement pursuant to section 428(b);

(2) the Secretary shall make a report to the Congress within 180 days after the enactment of the Education Amendments of 1976, containing a description of the plan developed according to paragraph (1) accompanied by a timetable for the execution of such plan; and

(3) the Secretary shall make a report to the Congress before June 30, 1977, which shall include—

(A) a description of the activities the Secretary and his designees have undertaken pursuant to paragraph (1),

(B) a description of such State's plans to establish a program meeting the requirements of section 428(b), and

(C) the Secretary's recommendations to the Congress as to what changes in law, or policy would encourage the establishment of such a program in all States without such programs.

(20 U.S.C. 1071) Enacted Nov. 8, 1965, P.L. 89–329, sec. 421, 79 Stat. 1236; amended Aug. 3, 1968, P.L. 90–460, secs. 2, 3, 82 Stat. 635–6; amended Oct. 16, 1968, P.L. 90–575, secs. 113, 114, 119, 82 Stat. 1020, 1021, 1027; amended Oct. 12, 1976, P.L. 94–482, section 127(a), 90 Stat. 2099, 2100; amended June 15, 1977, P.L. 95–43, sec. 1 (a)(8), (a)(9), (a)(10), 91 Stat. 213; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended August 15, 1983, P.L. 98–79, sec. 6, 97 Stat. 482.

ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

SEC. 422. (a)(1) From sums appropriated pursuant to clauses (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which he has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of (A) the sum of (i) advances made under this section prior to July 1, 1968, (ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made, and (iii) the proceeds of earnings on advances made under this section or (B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(3) Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purposes of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b)(1) The total of the advances to any State prior to July 1, 1968, pursuant to subsection (a) may not exceed an amount which bears the same ratio to 2½ per centum of $700,000,000 as the population of that State aged eighteen to twenty-two, inclusive, bears to the total population of all the States aged eighteen to twenty-two inclusive. The amount available, however, for advances to any State for each fiscal year ending prior to July 1, 1968, shall not be less than $25,000, and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000 per year) the amount available for advances to each of the remaining States. Advances to nonprofit private institutions and organizations prior to July 1, 1968, pursuant to subsection (a) may be in such amounts as the Secretary determines will best achieve the purposes for which they are made, except that the sum of (1) advances to such institutions and organizations for the benefit of students in any State plus (2) the amounts advanced to such State, may not exceed the maximum amount which may be advanced to that State pursuant to the first two sentences of this subsection.

(2) The total of the advances from the sums appropriated pursuant to clause (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and (B) to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged eighteen to twenty-two, inclusive, bears to the population of all the States aged eighteen to twenty-two inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve

the purposes for which they are made. The amount available, however, for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(3) For the purposes of this subsection, the population aged eighteen to twenty-two, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c)(1) From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2)(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 per centum of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by (i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date, and (ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a). Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For purposes of subparagraph (B) the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4)(A) No repayment of any advances made pursuant to this subsection shall be required until such time as the sum of the advances under this subsection exceeds 20 per centum of the State's outstanding insurance obligation determined in accordance with subparagraph (B) of this paragraph.

(B) For purposes of this paragraph, a State's outstanding insurance obligation shall be determined by subtracting from the total principal amount of loans insured by the State since it entered into an agreement pursuant to section 428(b), the total principal amount of loans insured by such State which have been fully repaid by the borrower, the State itself, or the Secretary, and loans which have been canceled.

(C) At such time as advances pursuant to this subsection reach the level indicated in subparagraph (A) of this paragraph, the amount of any excess shall be paid over to the Secretary in a lump sum at the beginning of each fiscal year for deposit in the fund established by section 431.

(5) Advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before the date of enactment of this subsection, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the two succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after the date of enactment of this subsection or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the four succeeding calendar years after the date so requested of the advance.

(6)(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with private nonprofit institution or organization for purposes of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State,

(ii) agrees that its insurance will not be denied any student because of his choice of eligible institutions or the student's lack of need, and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(20 U.S.C. 1072) Enacted Nov. 8, 1965, P.L. 89–329, sec. 422, 79 Stat. 1236; amended Nov. 3, 1966, P.L. 89–752, sec. 11, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90–575, sec. 114, 82 Stat. 1021; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2100, 2101, 2102, 2103; amended June 15, 1977, P.L. 95–43, sec. 1(a)(11)(A), (B), (C), (a)(12), (a)(13), 91 Stat. 213, 214; amended Nov. 1, 1978, P.L. 95–561, sec. 1322(a), 92 Stat 2363; amended Oct. 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503.

EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. (a) Except as provided in subsections (b) and (c), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if he determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) The Secretary may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of his residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State),

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers, or

(3) under such circumstances as may be approved by the State or nonprofit private institution or organization in such State with which the Secretary has an agreement under section 428(b), for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(c) The Secretary shall not deny, because of any provision of this section, a certificate of insurance under section 429 to any eligible lender which is an eligible institution if such lender has previously executed an agreement with the Secretary pursuant to section 433 of this part, unless the Secretary determines, based upon studies and surveys satisfactory to him, that access to a loan by all eligible students who make an active and diligent effort to obtain a loan under this part will be otherwise available. In order to carry out the provisions of the preceding sentence the Secretary shall periodically assess the availability of loans to eligible students through studies and surveys undertaken by him and through review of properly conducted studies and surveys made available to him.

(20 U.S.C. 1073) Enacted Nov. 8, 1965, P.L. 89–329, sec. 423, 79 Stat. 1237; amended Oct. 16, 1968, P.L. 90–575, sec. 119, 82 Stat. 1026; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2103; amended June 15, 1977, P.L. 95–43, sec. 1(a)(14), 91 Stat. 214; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $1,400,000,000 for the fiscal year ending June 30, 1972, $1,600,000,000 for the fiscal year ending June 30, 1973, $1,800,000,000 for the fiscal year ending June 30, 1974, $2,000,000,000 for each of the fiscal years ending June 30, 1975, and 1976, and $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1986. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1990.

(b) The Secretary may, if he finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(20 U.S.C. 1074) Enacted Nov. 8, 1965, P.L. 89–329, sec. 424, 79 Stat. 1237; amended Aug. 3, 1968, P.L. 90–460, sec. 1, 82 Stat. 634; amended Oct. 16, 1968, P.L. 90–575, sec. 112, 82 Stat. 1020; amended June 23, 1972, P.L. 92–318, sec. 132(a), 86 Stat. 261; amended June 30, 1976, P.L. 94–328, sec. 2(a), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2103, 2104; amended October 3, 1980, P.L. 96–374, secs. 411, 1391, 94 Stat. 1415, 1503.

LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

SEC. 425. (a)(1) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Secretary), except—

(A) that in the case of loans to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, which are made by an eligible lender as described in section 435(g)(1)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution, the total of such loans may not exceed the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with the provisions of section 428(a)(2)(B)(i)),

(B) that in the case of a loan made or originated (as defined in section 433(b)) by an eligible institution which is made to such a first-year student, the loan may exceed $1,500 only if it is to be disbursed in two or more installments none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(C) in cases where the Secretary determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high cost of education.

The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit. For the purpose of clause (B), all loans made within any period of 90 days shall be considered a single loan.

(2) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $12,500 in the case of any student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under section 428(b), made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b)(1)(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(g)(1)(D) exceeds 5 per centum of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C) shall be equal to 90 per centum of the amount of such portion;

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 per centum of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (c), shall be equal to 80 per centum of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) shall not apply to an eligible lender as described in section 435(g)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the four succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(g)(1)(D) shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1967, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) For the purposes of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by (A) the amount the Secretary has been required to pay to discharge his insurance obligations under this part, (B) the original principal amount of loans insured by the Secretary which have been fully repaid, (C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2) (C), and (D) the original principal amount of loans repaid by the Secretary under section 437.

(3) For the purposes of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

(20 U.S.C. 1075) Enacted Nov. 8, 1965, P.L. 89-329, sec. 425, 79 Stat. 1238; amended Oct. 16, 1968, P.L. 90-575, secs. 116, 120, 82 Stat. 1023 and 1027; amended June 23, 1972, P.L. 92-318, sec. 132(a), 86 Stat. 261; further amended June 23, 1972, P.L. 92-318, sec. 132B(a), 86 Stat. 262; amended Oct. 12, 1976, sec. 127(a), 90 Stat. 2104, 2105; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(15), (a)(16), (a)(17), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(b)(2), 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, secs. 412, 1391, 94 Stat. 1416, 1503; as amended August 13, 1981, P.L. 97-35, sec. 535 (a), (b), 95 Stat. 455.

SOURCES OF FUNDS

SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Commissioner whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(20 U.S.C. 1076) Enacted Nov. 8, 1965, P.L. 89-329, sec. 426, 79 Stat. 1238; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2106.

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) A loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than five years (unless sooner repaid or unless the student, during the six months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning six months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in clause (C) below,

(ii) that the period of the loan may not exceed fifteen years from the execution of the note or written agreement evidencing it,

(iii) that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made, and

(iv) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event a student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than five years,

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period (i) during which the borrower is pursuing a full-time course of study at an "eligible institution", is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, (v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or (viii) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment, and that any such period shall not be included in determining the ten-year period or the fifteen-year period provided in clause (B) above,

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest has so accrued during that period may be added on that date to the principal,

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purposes of section 437,

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan,

(G) provides that, in the case of each loan insured by the program, the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower,

(H)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,

(I) the funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student, and

(J) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan.

(b) Except as provided in section 427A, no maximum rate of interest prescribed and defined by the Secretary for the purposes of clause (2)(D) of subsection (a) may exceed 7 per centum per annum on the unpaid principal balance of the loan.

(c) The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

(20 U.S.C. 1077) Enacted Nov. 8, 1965, P.L. 89-320, sec. 427, 79 Stat. 1238; amended Nov. 8, 1966, P.L. 89-794, sec. 1101(b), 80 Stat. 1476; amended Aug. 3, 1968, P.L. 90-460, sec. 2, 82 Stat. 635; amended Oct. 16, 1968, P.L. 90-575, secs. 113, 116, 120, 82 Stat. 1021, 1023, 1027; amended June 23, 1972, P.L. 92-318, sec. 132B(b), 86 Stat. 262; further amended June 23, 1972, P.L. 92-318, sec. 132C(c), 86 Stat. 263; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2107, 2108; amended June 15, 1977, P.L. 95-43, sec. 1(a)(9), 91 Stat. 213; sec. 1(a)(18), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(a)(1), 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, secs. 413(a), 413(c), 415(a)(2), 415(b)(1), 416(a)(2), 423(a)(1), 1391, 94 Stat. 1417, 1418, 1419, 1420, 1421, 1432, 1503; amended August 31, 1981, P.L. 97-35, sec. 537 (b)(1), (d)(2), (e)(1), 95 Stat. 456, 457; amended August 15, 1983, P.L. 98-79, sec. 10, 97 Stat. 484.

APPLICABLE INTEREST RATES

SEC. 427A. (a) With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 per centum;

(2) except as provided in paragraph (3), be 9 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 per centum per annum on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstand-

ing balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) If for any twelve-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 9 per centum, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c)(1) Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428B on or after October 1, 1981, shall be 14 per centum per annum on the unpaid principal balance of the loan.

(2) If for any twelve-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 per centum per annum on the unpaid principal balance of the loan.

(3) If for any twelve-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period exceeds 14 per centum, the applicable rate of interest for loans made pursuant to section 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 per centum per annum on the unpaid principal balance of the loan.

(d) Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(e) For the purposes of subsection (a) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(20 U.S.C. 1077a) Enacted October 3, 1980, P.L. 96–374, sec. 415(a)(1), 94 Stat. 1419; amended August 13, 1981, P.L. 97–35, sec. 534(a)(1), Stat. 454; amended August 15, 1983, P.L. 98–79, sec. 5, 97 Stat. 481.

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

SEC. 428. (a)(1) Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part;

(B) which was made under a State student loan program (meeting criteria prescribed by the Secretary), and which was contracted for, and paid to the student, within the period specified by paragraph (5); or

(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his behalf and for his account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance; and

(II) sets forth such student's estimated financial assistance; and

(ii) meet the requirements of subparagraph (B).

(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the adjusted gross income of such student's family—

(i) is less than or equal to $30,000; or

(ii) is greater than $30,000, and the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need, subject to the provisions of subparagraph (F).

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subparts 1 and 2 of part A, and parts C and E of this title, any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B)(ii) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

(D) The Secretary shall submit a separate schedule of expected family contributions to the President of the Senate and the Speaker of the House of Representatives not later than the submission of, and in accordance with the procedures for, the proposed schedule of expected family contributions under section 482, except as provided in subparagraph (E).[1]

(E)(i) The initial separate schedule required by subparagraph (D) shall—

(I) be submitted not later than August 15, 1981;

(II) be effective on October 1, 1981, except as is otherwise provided in division (ii);

(III) not be the subject of public comment otherwise required by section 482(a)(1) of this Act or section 431 of the General Education Provisions Act; and

(IV) be subject to amendment prior to the next regular submission of a separate schedule as required by subparagraph (D) only in accordance with division (iv) of this subparagraph.

(ii) If either the Senate or the House of Representatives adopts, prior to October 1, 1981, a resolution of disapproval of the schedule submitted under division (i), such schedule shall not take effect. If such schedule is so disapproved, or if the Secretary does not submit such a schedule by August 15, 1981, then beginning on October 1, 1981, the expected family contribution for purposes of this paragraph shall be determined by the eligible institution in accordance with regulations promulgated under section 411 or 413B, as in effect for the period beginning on July 1, 1981, governing the determination of expected family contribution.

(iii) The method of determining the expected family contribution established under this subparagraph shall remain in effect until superseded by the taking effect of the next schedule submitted in accordance with subparagraph (D) or amended in accordance with division (iv) of this subparagraph.

(iv) Any amendment promulgated by the Secretary to the initial separate schedule established under this subparagraph shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, within 30 legislative days following the publication of such amendment, a resolution of disapproval of such amendment, such amendment shall not take effect.

(F) For the purpose of a student described in clause (ii) of subparagraph (B), the amount of the loan which is qualified for a payment under paragraph (1) is the amount of the need of such student as determined by the eligible institution, except that, if the amount of need is equal to or more than $500, but is less than $1,000, the amount of the loan which is qualified for such payment shall be $1,000.

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[1] For special provisions concerning academic years beginning with 1983-1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(3)(A) Except as provided in paragraph (8) and subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid on his behalf and for his account to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C); but, except as provided in paragraph (8) of this subsection, such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his behalf for that period under any State or private loan insurance program. The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined. The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(B) If (i) a State student loan insurance program is covered by an agreement under subsection (b), (ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and (iii) the Secretary determines that section 428(d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purposes of this part, then he may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the sixtieth day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per annum (determined by the Secretary) which shall not exceed 1 per centum of the unpaid principal balance of the loan.

(4) Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) The period referred to in subparagraphs (B) and (C) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1986, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his education program, such period shall end at the close of September 30, 1990.

(6) No payment may be made under this section with respect to the interest on a loan made from a student loan fund established under title II of the National Defense Education Act of 1959 or part E of this title.

(7) Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(8)(A) In the case of any eligible lender (other than an eligible institution or an agency or instrumentality of a State), which is approved by the Secretary pursuant to subparagraph (B) of this paragraph for the purpose of authorizing multiple disbursements and which enters into a binding agreement with a student to make a loan—

(i) for which the student is entitled to have a portion of the interest paid on his behalf under this section, and

(ii) the proceeds of which loan are to be paid to the student in multiple disbursements over the period of enrollment for which the loan is made, but not to exceed twelve months,

the amount of the interest payment and the amount of any special allowance payment to be paid under section 438 shall be determined as if the entire amount to be made available for that period of enrollment had been disbursed on the date on which the first installment thereof was disbursed, and any increase in the rate of interest on the loan attributable to such multiple disbursements shall not be deemed to violate any provision of this part relating to the maximum rate of interest on such loan. The provisions of this paragraph shall apply only in the case of loans paid in multiple disbursements, in accordance with regulations of the Secretary, based on the need of the student for the proceeds of such loan over the period of enrollment for which the loan is made.

(B) The Secretary may approve an eligible lender for the purposes of this paragraph if he determines—

(i) that such lender is making or will be making a substantial volume of loans on which an interest subsidy is payable under this section, and

(ii) that such lender has sufficient experience and administrative capability in processing such loans to enable the lender to make such multiple disbursements in accordance with regulations issued by the Secretary under this subparagraph.

(C) If the Secretary has not promulgated regulations pursuant to this paragraph on or before September 30, 1979, all eligible lenders (other than those excluded under subparagraph (A)) shall be deemed approved by the Secretary for purposes of this paragraph.

(b)(1) Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) if not less than $1,000 nor more than $2,500 in the case of a student who has not successfully completed a program of undergraduate education, or $5,000 in the case of a graduate or professional student (as defined in regulations of the Secretary), except—

(i) that the program may not authorize the insurance of loans which are made by an eligible lender as described in section 435(g)(D) or which are made or originated (as defined in section 433(b)) by an eligible institution to a student for his first academic year of a program of postsecondary education, and who has not previously enrolled in such a program, in an amount in excess of the lesser of $2,500 or 50 per centum of the estimated cost of attendance (calculated in accordance with section 428(a)(2)(C)(i)),

(ii) that the program may not authorize the insurance of a loan in excess of $1,500 for an academic year which is made or originated (as defined in section 433(b)) by an eligible institution, and is made to such a first-year student unless the loan is to be disbursed in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second of such installments being not less than one-third of the period of enrollment for which the student received the loan, and

(iii) in cases where the Secretary determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education,

but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit, and all loans issued within any period of 90 days shall be considered as a single loan for purposes of division (ii);

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed $12,500 in the case of any student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under section 428(b), made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least six academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the period of any insured loan may not exceed fifteen years from the date of execution of the note or other written evidence of the loan, and (iii) the note or other written evidence of any loan, may contain such provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than five years (unless the student, during the six months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than ten years beginning six months after the month in which the student ceases to pursue a full-time course of study at an eligible institution, except—

> (i) that, if the program provides for the insurance of loans for part-time study at eligible institutions, the program shall provide that such repayment period shall begin not earlier than six months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;
>
> (ii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, except that in the event [illegible] student has requested and obtained a repayment period of less than five years, he may at any time prior to the total repayment of the loan have the repayment period extended so that the total repayment period is not less than five years;

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess of 7 per centum per annum on the unpaid principal balance of the loan (exclusive of any premium for insurance which may be passed on to the borrower), except as otherwise required by section 427A;

(G) insures not less than 80 per centum of the unpaid principal of loans insured under the program;

(H) does not provide for collection of an excessive insurance premium, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under section 428(a) (1) and (2) except in the case of loans made by an instrumentality of a State or eligible institution;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, unless the borrower and the lender otherwise agree, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973, (v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii) during a single period, not in excess of twelve months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

(N) provides that in the case of each loan insured by the program that the eligible institution attended by the borrower at the time of the loan will be notified of such insurance and the name of the lender making the loan, and such notification will be made either by (i) the prompt transmittal of such information to the institution by the insurer or the lender, or (ii) a requirement of the insurer, as a condition of its insurance, that the lender shall transmit any checks for the proceeds of such loan directly to the eligible institution for delivery to the borrower;

(O) provides that funds borrowed by a student are disbursed by check payable to the order and requiring the endorsement of such student; and

(P) requires the borrower to promptly notify the holder of the loan concerning any change of address.

(2) Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as he may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan;

(B) include such other provisions as may be necessary to protect the financial interests of the United States and promote the purposes of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the State or nonprofit private organization or institution, as the case may be; and

(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his function under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(c)(1)(A) The Secretary may enter into a guaranty agreement with any State or any nonprofit private institution or organization with which he has an agreement pursuant to subsection (b), whereby the Secretary shall undertake to reimburse it, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a State or nonprofit private institution or organization as reimbursement under this subsection shall be equal to 80 per centum of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program.

(B) Any State or any nonprofit private institution or organization which has entered into a supplementary agreement under section 428A of this Act whereby the Secretary agrees to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any such insured loan in an amount equal to 100 per centum of the amount expended by it in the discharge of its insurance obligation incurred under its loan insurance program, except that—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 per centum of the loans which are insured by such institution or organization under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 per centum of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments, exceed 9 per centum of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 per centum of the amount of such excess.

(C) For purposes of this subsection, the amount of loans of a State or nonprofit private institution or organization which are in repayment shall be the original principal amount of loans made by a lender which are insured by such an institution or organization reduced by (i) the amount the insurer has been required to pay to discharge its insurance obligations under this part, (ii) the original principal amount of loans insured by it which have been fully repaid, and (iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to section 428(b)(1)(E) or such first installment need not be paid pursuant to section 428(b)(1)(M).

(2) The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program;

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for purposes of paragraph (8): *Provided*, That, except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for purposes of section 422(c); and

(F) may include such other provisions as may be necessary to promote the purposes of this part.

(3) To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forebearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(4) For purposes of this subsection, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

(5) In the case of any guaranty agreement with a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) of this section, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such State, institution or organization and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6)(A) For the purpose of paragraph (2)(D) and for the purpose of section 428A(b)(5) the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the State or the nonprofit private institution or organization with which the Secretary has an agreement under this subsection has deducted from such payments (i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan and (ii) an amount equal to the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) of this subsection), to the extent such costs do not exceed 30 per centum of such payments and have not been reimbursed under subsection (f).

(B) For the purpose of this paragraph, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable,

(ii) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable, and

(iii) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(7)(A) Notwithstanding paragraph (1)(B), the amount to be paid a State or a nonprofit private institution or organization for any fiscal year—

(i) which begins on or after the effective date of this paragraph; and

(ii) which is either the fiscal year in which such State, institution, or organization begins to actively carry on a student loan insurance program which is subject to a guarantee agreement under subsection (b) of this section, or is one of the four succeeding fiscal years,

shall be 100 per centum of the amount expended by such State, organization, or institution in discharge of its insurance obligation insured under such program.

(B) The Secretary shall continuously monitor the operations of those States and nonprofit private institutions or organizations to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such State or nonprofit private institution or organization which he determines has not exercised reasonable prudence in the administration of such program.

(8) If the Secretary determines that the protection of the Federal fiscal interest so requires, a State or nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(d) No provision of any law of the United States (other than sections 427(a)(2)(D) and 427(b) of this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part, and

(2) which is insured (A) by the United States under this part, or (B) by a State or nonprofit private institution or organiza-

tion under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) [Repealed August 13, 1981, P.L. 97-35, sec. 537(a)(1), 95 Stat. 456.]

(f)(1) The Secretary is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has an agreement under subsection (b) of this section, for the purposes of—

(A) the administrative cost of promotion of commercial lender participation;

(B) the administrative costs of collection of loans;

(C) the administrative costs of preclaims assistance for default prevention;

(D) the administrative costs of monitoring the enrollment and repayment status of students; or

(E) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(2) The Secretary is authorized to make payments in accordance with the provisions of this paragraph to any State or any nonprofit private institution or organization with which he has a supplemental guaranty agreement under section 428A(a)(2) of this Act for the purposes of—

(i) the administrative costs of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention;

(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

(v) other such costs related to the student loan insurance program subject to such agreement.

The total amount of payments for any fiscal year made under this paragraph shall not exceed an additional one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such State, or institution or organization. If the sums appropriated for any fiscal year for making payments under this paragraph are not sufficient to pay in full the amounts provided for which such States, institutions, and organizations are eligible, then such amount will be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) For the purpose of this subsection, the term—

(A) "administrative costs of promotion of commercial lender participation" means any administrative costs incurred by an insurer which are directly related to supervising, training, or informing eligible lenders or prospective eligible lenders or inducing such lenders to improve or expand their program participation, and such costs may include (i) the costs of planning and executing instructional seminars and the costs of attending other meetings with lenders, (ii) the costs of obtaining or producing instructional or promotional materials or equipment for distribution to, or use with, lenders, (iii) postage costs associated with the distribution of instructional or promotional materials to lenders, (iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation, (vi) an appropriate share of the costs of establishing branch offices to serve the needs of lenders which are geographically distant from such insurer's primary business location, and (vii) an appropriate share of the compensation of personnel whose primary responsibility is the training, supervising, or recruiting of lenders, but not including personnel whose primary responsibilities are the performing or supervising such duties as relate to the routine processing of borrower applications for loans or the maintenance of supporting records but in no case shall any such costs include any overhead expenses of such insurer associated with the insurer's primary business location,

(B) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of loans on which default claims have been paid to participating lenders, including the compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency,

(C) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to lenders on delinquent loans, prior to the loans being legally in a default status, including the compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to collection activities), fees paid to locate missing borrowers, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency, and

(D) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(4)(A) No payment may be made under paragraph (1) of this subsection unless the State or the nonprofit private institution or organization submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(i) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(ii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iii) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(iv) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require to carry out the provisions of this subsection.

(B) No payment may be made under paragraph (2) of this subsection unless the State or the nonprofit private institution or organization submits to the Secretary an application, at such time, at least annually, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(i) set forth assurances that the student loan insurance program subject to the supplemental guaranty agreement complies with clauses (A) through (F) of paragraph (2) of section 428A(a);

(ii) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(iii) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(iv) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(v) set forth assurances that the State or the nonprofit private institution or organization will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require to carry out the provisions of this subsection.

(5)(A) The Secretary shall make payments in accordance with this paragraph to an agency, institution, or organization in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

(B) A student is eligible to apply for lender referral services to an agency, institution, or organization in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

(C) The amount which the Secretary shall pay to any eligible agency, institution, or organization under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's, institution's, or organization's referral service.

(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

(E) There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

(g) If a nonprofit private institution or organization (1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and (2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii), the Secretary shall consider an act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(h)(1) From sums advanced by the Association pursuant to section 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2)(A) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) and which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

(B) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section and each eligible lender in a State described in section 435(g)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered between the Association and such agency, institution, organization, or lender.

(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(20 U.S.C. 1078) Enacted Nov. 8, 1965, P.L. 89–329, sec. 428, 79 Stat. 1240; amended Aug. 3, 1968, P.L. 90–460, secs. 1, 2, 3, 82 Stat. 634–638; amended Oct. 16, 1968, P.L. 90–575, secs. 111, 112, 113, 115, 116, 117, 1220, 82 Stat. 1020–27; amended June 23, 1972, P.L. 92–318, sec. 132(b), 86 Stat. 261; further amended June 23, 1972, P.L. 92–318, sec. 132C (a) and (b), 86 Stat. 262, 263; section 428(e) repealed June 23, 1972, P.L. 92–318, sec. 132D(c), 86 Stat. 264; amended April 18, 1974, P.L. 93–269, 88 Stat. 87, 89; amended June 30, 1976, P.L. 94–328, sec. 2(b), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2108–2120; amended June 15, 1977, P.L. 95–43, sec. 1(a) (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), 91 Stat. 214, 215, 216; amended November 1, 1978, P.L. 95–566, sec. 5 (a)(2), (b)(1), (b)(3)–(5), 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, secs. 411(b), 412 (c), (d), (f), 413(b), (d), 414, 415(a) (3), (4), (5), (b)(2), 417, 423 (b), (c), (d), 1391, 94 Stat. 1416, 1417, 1418, 1419, 1420, 1422, 1432, 1503; amended August 13, 1981, P.L. 97–35, secs. 532(a), (b)(1), 535(c), (d), 536(b), 537(b)(2), (c), (d)(1), (e)(2), 95 Stat. 451, 452, 455, 456, 457; amended August 15, 1983, P.L. 98–79, sec. 10(b), 97 Stat 484.

LOAN INSURANCE SUPPLEMENTAL GUARANTY AGREEMENT

SEC. 428A. (a)(1) The Secretary may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) whereby the Secretary shall undertake to reimburse the State or nonprofit private institution or organization, under such terms and conditions as he may establish, in an amount determined in accordance with section 428(c)(1)(B), if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Secretary) in any academic year or its equivalent (as determined under regulations of the Secretary), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $12,500 in the case of any student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under this part, made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State and if such a student is accepted for enrollment in or is attending an eligible institution outside that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program, unless (i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as the lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Secretary not later than July 1, 1977, and annually thereafter, concerning such criteria including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

(2) The Secretary may enter into a supplemental guaranty agreement, annually, with any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1) for the purpose of qualifying such State or nonprofit private institution or organization for payment of administrative cost allowances under section 428(f)(2) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance of loans in any amount up to a maximum of $2,500 (in the case of a student who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student) to any individual student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined under regulations of the Secretary) in any academic year or its equivalent (as determined under regulations of the Secretary), which limit shall not be deemed exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any such year in excess of such annual limit; and provides that the aggregate insured unpaid principal amount of all such insured loans made to any student shall be any amount up to a maximum of $12,500 in the case of any student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a State or nonprofit institution or organization with which the Secretary has an agreement under this part, made to such person before he became a graduate or professional student), except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive;

(B) insures not less than 100 per centum of the unpaid principal of the loans insured under the program, whether or not such loans are eligible for interest subsidies under this part;

(C) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such State or nonprofit private institution or organization;

(D) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is a legal resident of the State, or if such a student is accepted for enrollment in or is attending an eligible institution within that State;

(E) provides no restrictions with respect to eligible institutions that are residential institutions which are more onerous than eligibility requirements for eligible institutions under the Federal student loan insurance program, unless (i) that eligible institution is ineligible under regulations for the limitations, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program, or (ii) there is a State constitutional prohibition affecting the eligibility of such an institution;

(F) provides (i) for the eligibility of the eligible institutions as lenders under reasonable criteria, unless (I) that eligible institution is eliminated as a lender under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of such an institution as a lender, and (ii) assurances that the State or nonprofit private institution or organization will report to the Secretary not later than July 1, 1977, and annually thereafter, concerning such criteria, including any special requirements for the eligibility of such lenders, procedures in effect under such program to limit, suspend, or terminate such lenders, a list of applications of such lenders, a summary of actions taken on such applications, and a list of the names of all such lenders within the State.

(b) Each supplemental guaranty agreement entered into under subsection (a)—

(1) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to insure proper and efficient administration of the loan insurance program, and to insure that due diligence will be exercised in the collection of loans insured under the program;

(2) shall set forth adequate assurance that the requirements of paragraph (1) or paragraph (2) of subsection (a) of this section, as the case may be, are met;

(3) shall provide for the making of such reports, in such form, and containing such information as the Secretary may reasonably require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(4) shall set forth adequate assurance that, with respect to so much of any loan insured under the loan insurance program as

may be guaranteed by the Secretary pursuant to subsection (a) of this section, the undertaking of the Secretary under the supplemental guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(5) shall provide that if, after the Secretary has made payment under the supplemental guaranty agreement pursuant to this section with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such portion of the amount of such payments as is determined (in accordance with regulations prescribed by the Secretary consistent with section 428(c)(6)) to represent his equitable share thereof, but shall not otherwise provide for subrogation of the United States to the rights of any insurance beneficiary: *Provided*, That, except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan; and

(6) may include such provisions as may be necessary to promote the purposes of this part.

(c)(1) To the extent provided in regulations of the Secretary, a supplemental guaranty agreement under this section may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

(2) For purposes of this section, the terms "insurance beneficiary" and "default" shall have the meanings assigned to them by section 430(e).

(20 U.S.C. 1078–1) Enacted October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2120, 2121, 2122, 2123; amended June 15, 1977, P.L. 95–43, sec. 1(a)(30), (31), (32), 91 Stat. 216; amended October 3, 1980; P.L. 96–374, secs. 412(e), (f), 1391, 94 Stat. 1420, 1421, 1503; amended August 13, 1981, P.L. 97–35, sec. 535(e), 95 Stat. 455.

AUXILIARY LOANS TO ASSIST STUDENTS

SEC. 428B. (a)(1) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms "student" and "student borrower" used in this part shall include a parent borrower under this section, but such a parent borrower shall not be eligible for any deferment pursuant to section 427(a)(2)(C) or 428(b)(1)(M).

(2) Graduate or professional students (as defined by regulations of the Secretary) and independent undergraduate students (as defined in section 482(c)(2)) shall be eligible to borrow funds under this section in amounts specified in subsection (b) (treating graduate and professional students as parents for the purposes of such subsection), and unless otherwise specified in subsections (c) and

(d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

(3) Any loan under this section may be counted as part of the student's expected family contribution in the determination of need under this title, but no loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c)(1) Repayment of principal on loans made under this section shall commence not later than sixty days after the date such loan is disbursed by a lender.

(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except as otherwise required by section 427A(c).

(4)(A) Subject to subparagraph (B) of this paragraph, the maximum amount an independent undergraduate student may borrow under this section in any academic year or its equivalent (as defined by regulation by the Secretary) is equal to (i) $2,500, minus (ii) the amount of all other loans under this part to such student for such academic year or its equivalent.

(B) The aggregate insured unpaid principal amount for insured loans made to an independent undergraduate student under this part (including loans made under this section) shall not exceed $12,500.

(d) Loans made under this section shall be insured by the Secretary in a State only if—

(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.

(20 U.S.C. 1078-2) Enacted October 3, 1980, P.L. 96-374, sec. 419, 94 Stat. 1424; amended August 13, 1981, P.L. 97-35, secs. 532(b)(3), 534(a)(2), (c)(1), (c)(3), 95 Stat. 452, 454, 455; amended August 15, 1983, P.L. 98-79, sec. 12, 97 Stat. 484.

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

SEC. 429. (a)(1) If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon sixty days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b)(1) In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 per centum per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

(d) The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

(20 U.S.C. 1079) Enacted Nov. 8, 1965, P.L. 89-329, sec. 429, 79 Stat. 1243; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2123, 2124, 2125; amended October 3, 1980, P.L. 96-374, sec. 1351, 94 Stat. 1503.

DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount had been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan. The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.

(b)(1) Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

(i) the date of disbursement and the amount of any such loan;

(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.

(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.

(c) Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) [1] As used in this section—

(1) the term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d); and

(2) the term "default" includes only such defaults as have existed for (A) one hundred and twenty days in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days in the case of a loan which is repayable in less frequent installments.

(20 U.S.C. 1080) Enacted Nov. 8, 1965, P.L. 89-329, sec. 430, 79 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, sec. 113, 82 Stat. 1021; amended June 23, 1972, P.L. 92-318, sec. 132B(c), 86 Stat. 262; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2125, 2126; amended June 15, 1977, P.L. 95-43, sec. 1(a)(33), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, secs. 416(a)(1), (b), 422, 1391, 94 Stat. 1421, 1422, 1432, 1503.

INSURANCE FUND

SEC. 431. (a) There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by him under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Secretary from his operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

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[1] Apparent technical error in slip law makes subsection (e) appear to be a part of P.L. 94-482 and not a part of section 430.

(b) If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c) or 428A(a)(1), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(20 U.S.C. 1081) Enacted Nov. 8, 1965, P.L. 89–329, sec. 431, 79 Stat. 1245; amended Aug. 3, 1968, P.L. 90–460, sec. 3, 82 Stat. 638; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2126, 2127; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503.

LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of prin-

cipal and payment of interest, relating to his obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this clause or any other provisions of this part may be modified by the Secretary if he determines that modification is necessary to protect the financial interest of the United States;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by him under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guarantee agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) The Secretary shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

(2) maintain with respect to insurance under this part an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act, except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c)(1)(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) as he deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2)(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d)(1) The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Office of Education established pursuant to section 403(c)(2) of the General Education Provisions Act.

(2) The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(20 U.S.C. 1082) Enacted Nov. 8, 1965, P.L. 89-329, sec. 432, 79 Stat. 1246; amended Aug. 3, 1968, P.L. 90-460, sec. 3, 82 Stat. 638; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2127, 2128, 2129; amended October 3, 1980, P.L. 96-374, secs. 416(c), 1391, 94 Stat. 1421, 1503.

INSTITUTIONAL LENDERS

Sec. 433. (a)(1) An eligible institution may not act as an eligible lender or originate loans under this part unless it has in effect an agreement with the Secretary under which it agrees (A) to make such loans to no more than 50 per centum of the students in attendance at the institution who are not graduate or professional students (as defined in regulations of the Secretary), and (B) that it will not make such a loan under this part to a student, other than a graduate or professional student (as defined in regulations of the Secretary), who has not previously received a loan from such institution until such student has provided the institution with either (i) a statement from an eligible lender (other than an eligible institution or a State or an agency of a State or private nonprofit agency designated by a State) that the borrower sought a loan from it and was denied such loan, or (ii) a sworn statement by the borrower that the lender from which he sought such a loan declined to provide the statement described in clause (i).

(2) Whenever the Secretary determines that the termination of the eligible institution's status as a lender under clause (A) of paragraph (1) would be a hardship to the present or prospective students of the eligible institution after considering the management of that institution, the opportunities that institution provides to economically disadvantaged students, and related factors, the Secretary shall waive the provisions of such paragraph with respect to that institution.

(b)(1) An eligible institution shall be deemed to have originated a loan for purposes of this section if it has had delegated to it by an eligible lender a substantial portion of the functions and responsibilities normally performed by a lender prior to the making of a loan, such as interviewing the applicant for the loan, explaining the applicant's responsibilities under the loan, obtaining completion of necessary forms obtaining necessary documentation, or verifying that the student is eligible for the loan.

(2) For purposes of this section, a loan is made or originated on the date of the first disbursement of any proceeds of the loan.

(20 U.S.C. 1083) Enacted Nov. 8, 1965, P.L. 89-329, sec. 433, 78 Stat. 1247; amended Oct. 16, 1968, P.L. 90-575, sec. 116, 82 Stat. 102; amended June 23, 1972; P.L. 92-318; sec. 132(c), 86 Stat. 261; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2129; amended June 15, 1977, P.L. 95-43, sec. 1(a)(34), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

SEC. 433A. (a) Each eligible lender shall, at or prior to the time such lender disburses a loan to a borrower which is insured or guaranteed under this part, provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

(11) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a State or nonprofit private agency or organization which has an agreement with the Secretary under section 428(b) under a contract of guaranty. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

(20 U.S.C. 1083a) Enacted October 3, 1980, P.L. 96-376, sec. 418, 94 Stat. 1423; amended October 13, 1982, P.L. 97-301, sec. 13(a), 96 Stat. 1404; amended August 15, 1983, P.L. 98-79, sec. 3(a), 97 Stat. 476.

PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Director of the Bureau of Federal Credit Unions, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(C).

(20 U.S.C. 1084) Enacted Nov. 8, 1965, P.L. 89-329, sec. 434, 79 Stat. 1247; amended Oct. 16, 1969, P.L. 90-575, sec. 116, 82 Stat. 1024; amended June 23, 1972, P.L. 92-318, sec. 132D(e), 86 Stat 264; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2129, 2130.

DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

SEC. 435. As used in this part:

(a) The term "eligible institution" means (1) an institution of higher education, (2) a vocational school, or (3) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for purposes of this part, except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1) at that institution or school.

(b) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsary school attendance, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time or, (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term includes any public or other nonprofit collegiate or associate degree school of nursing and any school which provides not less than one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of clause (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, he shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of clause (5) meet those standards. For purposes of this subsection the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been in existence for two years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and (4) is accredited (A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause, (B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause and (C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded.

(d) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing.

(e) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(f) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

(g)(1) Except as provided in paragraphs (2), (3), and (4), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless it is a bank which is wholly owned by a State;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2), (3), and (4) of this subsection and which has signed an agreement pursuant to section 433;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association; and

(H) for purposes of making loans under section 428(j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).

(2) To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

(B) shall not be a home study school.

(3) The term eligible lender does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of two consecutive years a 15 per centum or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year is a default, as defined in section 430(e)(2).

(4) Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within one year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph he shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(h) The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(i) The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(j) The term "temporarily totally disabled" when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.

(20 U.S.C. 1085) Enacted Nov. 8, 1965, P.L. 89-329, sec. 435, 79 Stat. 1247; as amended Oct. 29, 1966, P.L. 89-698, sec. 204, 80 Stat. 1072; amended Oct. 16, 1968, P.L. 90-575, secs. 116, 118, 82 Stat. 1023-26; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2130, 2131; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(35), (a)(36), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, secs. 412(e), 421(e)(2), 1391, 94 Stat. 1418, 1432, 1503.

DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

SEC. 436. (a) The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

(20 U.S.C. 1086) Enacted Nov. 3, 1966, P.L. 89-752, sec. 12, 80 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, sec. 116, 82 Stat. 1024; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2132, 2133; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

REPAYMENT BY THE COMMISSIONER OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

SEC. 437. (a) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

(20 U.S.C. 1087) Enacted Oct. 16, 1968, P.L. 90-575, sec. 113, 82 Stat. 1020; amended June 23, 1972, P.L. 92-318, sec. 132D, 86 Stat. 265, amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2133; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

SPECIAL ALLOWANCES

SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2)(A) Subject to subparagraph (B) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such three month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.5 per centum to the resultant per centum, and (iv) by dividing the resultant per centum by four.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The rate set under division (i) shall not be less than (I) 2.5 per centum per annum in the case of loans for which the applicable interest rate is 7 per centum per annum, (II) 1.5 per centum per annum in the case of loans for which the applicable interest rate is 8 per centum per annum, or (II) 0.5 per centum in the case of loans for which the applicable rate is 9 per centum per annum.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(3) The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section.

(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for his account to the holder of the loan under section 428(a);

(ii) which is made under section 428B or 439(o); or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(c)(1) Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) With respect to any loan (other than loans made under section 428B and section 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 per centum of the principal amount of the loan, which may be deducted from the proceeds of the loan prior to payment to the borrower.

(3) Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

(4) The lender shall disclose to the borrower the amount and method of calculating the origination fee. For any loan for which the lender is authorized to charge an origination fee and which is made prior to August 1, 1982—

(A) this disclosure need not meet the requirements of the Truth in Lending Act (15 U.S.C. 1601 et seq.) or the disclosure requirements of any State law;

(B) for purposes of such Act, a lender may disclose either in the note or other written evidence of the loan or in a supplementary letter (which need not be signed by the borrower);

(C) for purposes of such Act, the origination fee shall not be taken into account in calculating and disclosing the annual percentage rate; and

(D) a lender or an assignee shall not incur civil liability under section 130 of such Act nor be subject to any administrative enforcement action pursuant to section 108 of such Act for disclosures in connection with such loans.

(d)(1) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Secretary a plan for doing business. The Secretary shall approve or disapprove such plan within thirty days after the date of its submission. Each such plan shall contain provisions designed to assure that—

(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 per centum of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program;

(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan; and

(G) the Authority will not issue obligations for amounts in excess of the reasonable needs for student loan credit within the area served by the Authority, after taking into account existing sources of student loan credit in that area.

(2) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice

which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(e) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.

(20 U.S.C. 1087-1) Enacted June 23, 1972; P.L. 92-318, sec. 132E(a), 86 Stat. 264; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2133, 2134, 2135, 2136; amended June 15, 1977, P.L. 95-43, sec. 1(a)(37) (A), (B), (C), (D), (E), (F), 91 Stat. 216, 217; amended October 3, 1980, P.L. 96-374, sec. 420, 94 Stat. 1425; amended August 13, 1981, P.L. 97-35, secs. 532(b)(4), 534(b), 536(a), 95 Stat. 452, 453, 454, 455, 456; amended August 15, 1983, P.L. 98-79, sec. 7, 97 Stat. 482.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 439. (a) The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b)(1) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by

the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 per centum, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c)(1) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

(2) An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d)(1) The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b);

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a State or nonprofit private institution or organization which has an agreement with the Secretary under section 428(b) or by an eligible lender in a State described in section 435(g)(1)(D) or (F);

(C) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428(A), and except with respect to loans under section 439(o), the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no State or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part is capable of or willing to provide a program of loan insurance for such borrowers; and

(D) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any

State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by said State law for perfection of security interests in accounts.

(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(e) The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (A) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (B) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

(g)(1) The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.

(2) The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is author-

ized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

(i) The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 3701 of the Revised Statutes (31 U.S.C. 742). For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3466 of the Revised Statutes (31 U.S.C. 191) shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1988.

(m) In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

(n) The Association, shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

(o)(1)(A) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

(B) The Association in making loans pursuant to this subsection in any State served by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) or an eligible lender in a State described in section 435(g)(1) (D) or (F) may designate as its agent such agency, institution, organization, or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency, institution, organization, or lender.

(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

(3)(A) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

(5) The authority of the Association to make loans under this section shall terminate on November 1, 1983.

(p)(1) The Association shall make advances in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency, institution, organization, or lender. Advances made under this subsection shall not be subject to section 439(d)(2) of this Act.

(2) No advance may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

(A) the conditions which caused the implementation of this subsection have ceased to exist: or

(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.

(20 U.S.C. 1087-2) Enacted June 23, 1972, P.L. 92-318, sec. 133(a), 86 Stat. 265, 269; amended April 21, 1976, P.L. 94-273, sec. 3(9), 90 Stat. 376; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2136-2141; amended June 15, 1977, P.L. 95-43, sec. 1(a)(38), 91 Stat. 217; amended October 3, 1980, P.L. 96-374, secs. 421, 1391, 94 Stat. 1427, 1503; amended August 13, 1981, P.L. 97-35, sec. 538, 95 Stat. 457; amended December 29, 1981, P.L. 97-115, sec. 18, 95 Stat. 1610; amended October 13, 1982, P.L. 97-301, sec. 14, 96 Stat. 1405; amended August 15, 1983, P.L. 98-79, secs. 2, 8, 97 Stat. 476, 483.

SEC. 439B. Repealed August 13, 1981, P.L. 97-35, sec. 532(b)(2), 95 Stat. 452.

(20 U.S.C. 1087-3a) Enacted November 1, 1978, P.L. 95-566, sec. 8, 92 Stat. 2404.

PART C—WORK-STUDY PROGRAMS [1]

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from employment to pursue courses of study at eligible institutions.

(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $720,000,000 for fiscal year 1982, $760,000,000 for fiscal year 1983, $800,000,000 for fiscal year 1984, and $830,000,000 for fiscal year 1985.

(42 U.S.C. 2751) Enacted Aug. 20, 1964, P.L. 88–452, sec. 121, 78 Stat. 515; amended Nov. 8. 1965, P.L. 89–329, sec. 441(2), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, secs. 131, 132, 133, 82 Stat. 1028–1029; amended Oct. 22, 1969, P.L. 91–95, sec. 5, 83 Stat. 143; amended June 23, 1972; P.L. 92–318, sec. 135 and sec. 135A, 86 Stat. 270; amended October 12, 1976, P.L. 94–482, sec. 128(a), 90 Stat. 2143; amended October 3, 1980, P.L. 96–374, sec. 431, 94 Stat. 1433.

ALLOTMENTS TO STATES

SEC. 442. (a) From the sums appropriated to carry out this part for a fiscal year, the Secretary shall (1) allot not to exceed 1 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under this part, and (2) reserve the amount provided by subsection (f). Ninety per centum of the remainder of such sums shall be allotted among the States as provided in subsection (b).

(b) Of the sums being allotted under this subsection—

(1) one-third shall be allotted by the Secretary among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-time basis in institutions of higher education in all the States.

(2) one-third shall be allotted by the Secretary among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States, and

(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

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[1] For special provisions concerning academic years beginning with 1983–1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(c) Sums remaining after making the allotments provided for in other provisions of this section shall be allotted among the States by the Secretary in accordance with equitable criteria established by him which shall be designed to achieve a distribution of the sums appropriated to carry out this part among the States which will most effectively carry out the purpose of this part, except that where a State's allotment under subsection (b) for a fiscal year is less than its allotment under that subsection for the fiscal year ending June 30, 1972, before he makes any other allotments under this subsection, the Secretary shall allot sufficient additional sums to such State under this sentence to make the State's allotment for that year under subsection (b) equal to its allotment under such subsection for the fiscal year ending June 30, 1972. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment from the same appropriation under subsection (b).

(d)(1) The amount of any State's allotment which has not been granted to an eligible institution under section 443 at the end of the fiscal year for which appropriated shall be reallotted by the Secretary in such manner as he determines will best assist in achieving the purposes of this Act, except that the Secretary shall give preference for the first 50 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act. Amounts reallotted under this subsection shall be available for making grants under section 443 until the close of the second fiscal year next succeeding the fiscal year for which appropriated.

(2) The requirement for preference under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.

(e) For purposes of this section, the term "State" does not include Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(f) From the appropriation for this part for each fiscal year the Secretary shall reserve an amount to provide work-study assistance to students who reside in, but who attend eligible institutions outside of, American Samoa or the Trust Territory of the Pacific Islands. The amount so reserved shall be allotted to eligible institutions and shall be available only for the purpose of providing work-study assistance to such students.

(42 U.S.C. 2752) Enacted Aug. 20, 1964, P.L. 88-452, sec. 122, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89-329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, secs. 131, 135, 82 Stat. 1028-1029; amended June 23, 1972, P.L. 92-318, sec. 135B, 86 Stat. 270, 271; amended October 3, 1980, P.L. 96-374, secs. 431, 432, 1391, 94 Stat. 1433, 1503.

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 443. (a) The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 482, and who meet the requirements of section 484 will be assisted, except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a);

(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or non-work-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a

work-study program shall not be subsidized with funds appropriated under this part;

(5) provide that the institution will meet the requirements of section 487(2) of this Act (relating to maintenance of effort);

(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Secretary determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

(8) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part; and

(9) include such other provisions as the Secretary shall deem necessary or appropriate to carry out the purposes of this part.

(42 U.S.C. 2753) Enacted Aug. 20, 1964, P.L. 88-452, sec. 123, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89-329, sec. 441(3), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, secs. 131, 133, 139, 82 Stat. 1028-1030; amended Oct. 12, 1976, P.L. 94-482, sec. 128(b), 90 Stat. 2143; amended Oct. 3, 1980, P.L. 96-374, sec. 434, 94 Stat. 1434.

SOURCES OF MATCHING FUNDS

SEC. 445. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

(42 U.S.C. 2755) Enacted Aug. 20, 1964, P.L. 88-452, sec. 125, 78 Stat. 516; amended Nov. 8, 1966, P.L. 89-329, sec. 441(6), 79 Stat. 1250; amended Oct. 16, 1968, P.L. 90-575, sec. 131, 82 Stat. 1028.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 446. (a) The Secretary shall establish criteria designed to achieve such distribution of assistance under this part among institutions of higher education within a State as will most effectively carry out the purposes of this Act. The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979, unless there is a substantial decline in the student enrollment of the institution.

(b) Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

(c) Up to 10 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

(42 U.S.C. 2756) Enacted Aug. 20, 1964, P.L. 88–452, sec. 126, 78 Stat. 516; amended Nov. 8, 1965, P.L. 89–329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, sec. 131, 82 Stat. 1028; amended June 28, 1975, P.L. 94–43, sec. 2, 89 Stat. 233; amended Oct. 3, 1980, P.L. 96–374, secs. 435(b), 1391, 94 Stat. 1435, 1503.

JOB LOCATION AND DEVELOPMENT PROGRAMS

SEC. 447. (a) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 per centum or $25,000 of its allotment under section 446, whichever is less, to establish or expand a program under which such institution, separately, in combination with other eligible institutions, or through a contract with a nonprofit organization, locates and develops jobs for currently enrolled students which are suitable to the scheduling and other needs of such students.

(b) Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 per centum of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent three fiscal years preceding the effective date of the agreement;

(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(6) provide satisfactory assurance that Federal funds used for the purposes of this section can realistically be expected to help generate student wages exceeding in the aggregate the amount of such funds and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(7) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(42 U.S.C. 2756a) Enacted June 23, 1972, P.L. 92-318, sec. 135F, 86 Stat. 271, 272; amended Oct. 12, 1976, sec. 128(d), 90 Stat. 2143, 2144; amended Oct. 3, 1980, P.L. 96-374, secs. 436, 1391, 94 Stat. 1436, 1503.

WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

SEC. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

(b) For the purpose of this section—

(1) "community service-learning" means a program of student work that—

(A) provides tangible community services for or on behalf of low-income individuals or families; and

(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

(2) "community services" means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

(1) development of mechanisms to assure the academic quality of the student experience,

(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.

(20 U.S.C. 2756b) Enacted October 3, 1980, P.L. 96-374, sec. 437, 94 Stat. 1436.

PART D—VACANT

(Part D—Cooperative Education stricken by P.L. 94-482, Title I, Part D, sec. 129(a), 90 Stat. 2144.)

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

APPROPRIATIONS AUTHORIZED

SEC. 461. (a) The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions.

(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $400,000,000 for each of the fiscal years 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).

(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1985 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1985, to continue or complete courses of study.

(c) Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(20 U.S.C. 1087aa) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273; amended October 12, 1976, P.L. 94-482, secs. 130(a) and 130(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96-374, secs. 441, 1391, 94 Stat. 1436, 1503.

(NOTE: Secs. 137(c) and (d) of P.L. 92-318 provide as follows:)

(c) In the case of a loan made before July 1, 1972, under Title II of the National Defense Education Act of 1958 not to exceed 50 per centum of such loan (1) shall be canceled for service by the borrower as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to Title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a fulltime teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purpose of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be cancelled, and (2) shall be cancelled for service by the borrower after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

(d)(1) Upon enactment of this Act, the program authorized by part E of title IV of the Higher Education Act of 1965, as added by subsection (b) is, and shall be deemed to be, a continuation of the program authorized by title II of the National Defense Education Act of 1958. In accordance with regulations of the Commissioner, except as provided in subsection (c) all rights, privileges, duties, functions, and obligations under such title II prior to the enactment of this Act shall be deemed to be vested, as the Commissioner determines to be appropriate under such part E. Any student loan fund established under an agreement under such title II shall, in accordance with regulations, be deemed to have been established under such part E, and any assets of such student loan fund of any institution shall be deemed to be the assets of a student loan fund established under an agreement of that institution with the Commissioner under such part E.

APPORTIONMENT OF APPROPRIATIONS [1]

SEC. 462. (a)(1) From 90 per centum of the sums appropriated pursuant to section 461(b)(1) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in institutions of higher education, as determined by the Secretary for the most recent year for which satisfactory data are available to him, in such State, bears to the total number of persons so enrolled in all the States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this part, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under section 202(a) of the National Defense Education Act of 1958 for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such section 202(a). Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

(2) Any sums appropriated pursuant to section 461(b)(2) for any fiscal year shall be apportioned among institutions of higher education in such a manner as the Secretary determines will best accomplish the purpose for which they were appropriated.

(b)(1) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment of the State in which it is located for any fiscal year shall make an agreement under section 463 and shall submit an application therefor to the Secretary, in accordance with the provisions of this part. The Secretary shall, from time to time, set dates before which such institutions must file applications under this section.

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[1] For special provisions concerning academic years beginning with 1983-1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(2) The Secretary shall pay to each applicant under this subsection which has an agreement with him under section 463, from the amount apportioned to the State in which it is located, the amount requested in such application. Such payment may be made in such installments as the Secretary determines will not result in unnecessary accumulations of capital in the student loan fund of the applicant established under its agreements under section 463.

(c)(1)(A) If the total amount of Federal capital contributions requested in the applications from a State for any fiscal year exceeds the amount apportioned to that State, the request from each institution shall be reduced ratably.

(B) In case additional amounts become available for payments to student loan funds in a State in which requests have been ratably reduced under subparagraph (A), such requests shall be increased on the same basis as they were reduced, except that no request shall be increased above the request submitted under subsection (b)(1).

(2) If the amount of an apportionment to a State for any fiscal year exceeds the total amount of Federal capital contributions requested in applications from that State, such excess shall be available for reapportionment from time to time on such date or dates as the Secretary shall fix. From the aggregate of such excess for any fiscal year, the Secretary shall reapportion to each State in which requests were reduced under subparagraph (A) of paragraph (1) an amount which bears the same ratio to such aggregate as the total amount of such reduction in that State bears to the total amount of such reductions in all the States.

(20 U.S.C. 1087bb) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273, 274; amended October 3, 1980, P.L. 96-374, secs. 448(a), 1391, 94 Stat. 1443, 1503.

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 463. (a) An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purposes of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 461;

(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

(C) Federal capital contributions from funds provided by the Secretary under section 468;

(D) collections of principal and interest on student loans made from deposited funds other than those described in subparagraph (C);

(E) charges collected pursuant to regulations under section 464(c)(1)(H); and

(F) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part,

(B) administrative expenses, as provided in subsection (b),

(C) capital distributions, as provided in section 466, and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

(4) provide that where a note or written agreement evidencing a note has been in default for (A) one hundred and twenty days, in the case of a loan which is repayable in monthly installments, or (B) one hundred and eighty days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in a report describing the total number of loans from such fund which are in such default, and made to the Secretary at least semiannually;

(5) provide that where a note or written agreement evidencing a loan has been in default for at least 2 years despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury;

(6)(A) provide that collections of principal and interest on student loans made from funds described in paragraph (2)(C), after deduction of any costs of litigation and other servicing and collection costs agreed to by the Secretary in connection with the servicing and collection of such a loan (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H), shall be paid to the Secretary at such time and in such manner as the Secretary may prescribe by regulation and shall be deposited in the Treasury of the United States; or

(B) provide that, if an institution of higher education determines not to service and collect student loans made from funds described in paragraph (2)(C), the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from funds described in such paragraph to the Secretary;

(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived;

(8) provide assurances that the institution will comply with the provisions of section 463A;

(9) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part as are agreed to by the Secretary and the institution.

(b)(1) An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 485.

(2) An institution which has entered into an agreement under subsection (a) and has elected to assign the notes or evidence of obligations of student loans in accordance with paragraph (6)(B) of such subsection shall be eligible to receive, from funds available to the Secretary, an amount equal to $10 per academic year for each student enrolled in that institution who in that year received a loan from funds described in paragraph (2)(C) of subsection (a) of this section. Payments received by an institution under this paragraph shall be used for the purpose of offsetting the costs to the institution for the program under this part.

(c)(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with requirements of section 430(b)(2) except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

(A) the date of disbursement and the amount of any such loan;

(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

(20 U.S.C. 1087cc) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 274, 275; amended October 12, 1976, P.L. 94-482, sec. 130(c), 90 Stat. 2146, 2147; amended October 3, 1980, P.L. 96-374, secs. 442(b) (1), (2), (3), 445(a), (b)(1), 447(a), 448(b), 1391, 94 Stat. 1439, 1440, 1442, 1443, 1503.

STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS

SEC. 463A. (a) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include:

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law;

(8) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(9) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(10) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

(11) to the extent practicable, in effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(12) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include:

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(20 U.S.C. 1087cc-1) Enacted October 3, 1980, P.L. 96-374, sec. 447(b), 94 Stat. 1443; amended October 13, 1982, P.L. 97-301, sec. 13(b), 96 Stat. 1404; amended August 15, 1983, P.L. 98-79, sec. 3(b), 97 Stat. 478.

TERMS OF LOANS

SEC. 464. (a)(1) Loans from any student loan fund established pursuant to an agreement under section 463, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(A) $12,000 in the case of any graduate of professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

(B) $6,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

(C) $3,000 in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.

(c)(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning six months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal fulltime academic workload, and ending ten years and six months after such date except that such period may begin earlier than six months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C) may provide, at the option of the institution in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to him from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the ten-year maximum repayment period provided for in clause (A) of this paragraph;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum or 4 per centum per annum in the case of any loan made on or after July 1, 1981, or 5 per centum in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (i) prior to the beginning date of repayment determined under clause (A) (i) or (ii) during any period in which repayment is suspended by reason of paragraph (2);

(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary.

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6)(B);

(H) may, pursuant to regulations of the Secretary, provide for an assessment of a charge with respect to the loan for failure of the borrower (i) to pay all or part of an installment when it is due or (ii) to file timely and satisfactory evidence of an entitlement of the borrower to a deferment of repayment benefit or a cancellation benefit under this part; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary.

(ii) is a member of the Armed Forces of the United States or is an officer in the Commissioned Corps of the Public Health Service;

(iii) is in service as a volunteer under the Peace Corps Act;

(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed three years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.

(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the ten-year maximum period provided for in clause (A) or paragraph (1).

(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until six months after the completion of such period of study, service, disability, or combination thereof.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the ten-year maximum repayment period provided for in clause (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) the amount of any charge under clause (G) of paragraph (1) shall not exceed—

(A) in the case of a loan which is repayable in monthly installments, $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter; and

(B) in the case of a loan which has a bimonthly or quarterly repayment interval, $3 and $6 respectively, for each such interval or part thereof by which such installment or evidence is late.

The institution may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the institution not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

(d) An agreement under this part of payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(20 U.S.C. 1087dd) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 275, 277; amended October 12, 1976, P.L. 94–482, sec. 130(d), 130(e), 130(f), 130 (g)(1) and (g)(2), 90 Stat. 2147; amended June 15, 1977, P.L. 95–43, secs. 1(a)(39), 91 Stat. 217; amended October 3, 1980, P.L. 96–374, secs. 442(b) (4), (5), 443, 444, 445(b)(2), 446, 448(c), 1391, 94 Stat. 1440, 1441, 1442, 1443, 1503; amended August 13, 1981, P.L. 97–35, sec. 539, 95 Stat. 458.

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a)(1) The per centum specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purposes of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 per centum of the total enrollment of that school and such determination shall not be made with respect to more than 50 per centum of the total number of schools in the State receiving assistance under such title I;

(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: *Provided*, That the salary of such staff member is not more than the salary of a comparable employee of the local educational agency, or

(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system; or

(D) as a member of the Armed Forces of the United States, for services that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

For purposes of this paragraph, the term "handicapped children" has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

(3)(A) The per centum of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in clause (A), or (C), of paragraph (2), at the rate of 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service;

(ii) in the case of service described in clause (B) of paragraph (2) at the rate of 15 per centum for each year of such service;

(iii) in the case of service described in clause (D) of paragraph (2) not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of qualifying service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purposes of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

(b) The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

(20 U.S.C. 1087ee) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 277, 278; amended Nov. 1, 1978, P.L. 95-561, sec. 1323, 92 Stat. 2363; amended October 3, 1980, P.L. 96-374, secs. 442(b)(6), 448 (d), (e), 1391, 94 Stat. 1440, 1443, 1503.

DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 466. (a) After September 30, 1990, and not later than March 31, 1991, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1990, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) After March 31, 1991, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1981, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

(c) Upon a finding by the institution or the Secretary prior to October 1, 1990, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(2) The remainder of the capital distribution shall be paid to the institution.

(20 U.S.C. 1087ff) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 278, 279; amended October 12, 1976, P.L. 94-482, sec. 130(h), 90 Stat. 2147; amended October 3, 1980, P.L. 96-374, secs. 442(c), 1391, 94 Stat. 1440, 1503.

COLLECTION OF DEFAULTED LOANS

Sec. 467. (a) The Secretary is authorized to attempt to collect any loan, which was made under this part and which is in default, referred to him by an institution, with which he has an agreement under subsection (a) of section 463, on behalf of such institution under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting such collection.

(b) The Secretary shall continue to attempt to collect any loan assigned under section 463(a) (5) or (6) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e)).

(20 U.S.C. 1087gg) Enacted August 13, 1979, P.L. 96-49, sec. 5(d)(3), 93 Stat. 352; amended October 3, 1980, P.L. 96-374, secs. 445(c), 1391, 94 Stat. 1442, 1503.

ALTERNATIVE SOURCE OF FUNDS

Sec. 468. (a)(1) The Secretary shall, not later than April 1 of each fiscal year, issue and have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out functions under this part, subject to such annual limitations as may be provided in an appropriation Act with respect to such fiscal year, except that the Secretary shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Secretary be sold to the Department of the Treasury for its own account or to the Federal Financing Bank.

(2) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Secretary held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(3) All obligations of the Secretary issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

(4) Obligations of the Secretary issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Secretary pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States.

(5) In order that the Secretary may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this section, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Secretary, to be held in the Treasury subject to delivery, upon order of the Secretary. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Secretary shall reimburse the Secretary of the Treasury for any expenses in-

curred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

(6) All moneys of the Secretary not otherwise employed may be—

(A) deposited with the Treasury of the United States subject to withdrawal by the Secretary, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

(B) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(C) with the approval of the Secretary of the Treasury, and by authorization of the Secretary, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Secretary.

(b)(1) The Secretary shall make payments under this section for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

(A) the cost of attendance at that institution,

(B) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

(C) the financial assistance received by students at that institution under parts A and C of this title, or any other provision of Federal law (other than part B), and other scholarship, grant, work, and loan assistance received by students,

subject to the limitations specified in section 464(a)(2). No application under subsection (c) shall be approved which requests an amount greater than the amount determined under this subsection to be needed by that institution.

(2) If the total amount of Federal capital contributions requested in applications under subsection (c) exceeds the amount available under this section for a fiscal year, the request from each institution shall be ratably reduced, except that no reduction may be made under this sentence to an amount which, together with funds available to the institution of higher education under section 463(a)(2) (A) and (B) for that fiscal year, is less than the amount which was used by that institution for making loans under this part during fiscal year 1980. In case additional amounts become available for such contributions in any fiscal year in which requests have been so reduced, such requests shall be increased on the same basis as they were reduced, except that no such request shall be increased above the amount requested in the application.

(c) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment under subsection (b) shall submit an application therefor to the Secretary at such time as the Secretary prescribes.

(d) There are authorized to be appropriated such sums as may be necessary to pay the differential between the rate of return on obligations of the Secretary made under this section and the interest collected on student loans made under this part.

(e) In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(20 U.S.C. 1087hh) Enacted October 3, 1980, P.L. 96–374, sec. 442(a), 94 Stat. 1437.

RECAPTURE OF CURRENT BALANCE OF STUDENT LOAN FUNDS

SEC. 469. If, by April 1 of any fiscal year, the Secretary has made available for deposit in student loan funds pursuant to section 463(a)(2)(C) an amount which equals or exceeds $1,000,000,000 to be available for loans for such fiscal year, there shall be collected from each student loan fund established under this part the current balance of such student loan fund as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund (excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C)) as the total amount of Federal capital contributions to such fund by the Secretary from funds appropriated under section 461 or under title II of the National Defense Education Act of 1958 bears to the sum of such Federal capital contributions and the institution's capital contribution to such fund. Such amounts shall be deposited in the Treasury of the United States.

(2) The remainder of such balance, excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C), shall be paid to the institution.

(3) Any portion of such balance which was deposited pursuant to section 463(a)(2)(C) shall be retained in the student loan fund for use in accordance with this part.

(20 U.S.C. 1087ii) Enacted October 3, 1980, P.L. 96–374, sec. 442(a), 94 Stat. 1439.

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

DEFINITIONS

SEC. 481. (a)(1) For the purposes of this title, except subpart 6 of part A and part B, the term "institution of higher education" includes, in addition to the institutions covered by the definition contained in section 1201(a)—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution;

(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(2) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

(b) For the purposes of this section, the term "proprietary institution of higher education" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(c) For the purposes of this section, the term "postsecondary vocational institution" means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

(d) For the purpose of any program under this title, the term "academic year" shall be defined by the Secretary by regulation.

(20 U.S.C. 1088) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1444.

NEED ANALYSIS [1]

SEC. 482. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1, 1981, April 1, 1982, and on April 1 of each succeeding calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, together with any amendments published in the Federal Register, no later than September 1, 1981, June 1, 1982, and June 1 of each succeeding year, shall become effective July 1 of the calendar year which succeeds such calendar year, except as is otherwise provided in paragraph (2). During the thirty-day period following publication of a schedule the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually.

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[1] For special provisions concerning academic years beginning with 1983–1984, see the Student Financial Assistance Technical Amendments Act of 1982 printed at the end of title IV of this Act.

(2) The schedule of expected family contributions required for each academic year, including any amendments thereto published pursuant to paragraph (1), shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, prior to October 15, 1981, July 15, 1982, or July 15 of any succeeding year, following the submission of such schedule and any amendments thereto as required by this paragraph, a resolution of disapproval of such schedule or amendments, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule, either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

(b)(1) For the purposes of this section, the term "family contribution" with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

(A) The amount of the effective income of the student or the effective family income of the student's parents.

(B) The number of dependents of the family of the student.

(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

(D) The amount of the assets of the student and the assets of the student's family.

(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

(F) Any educational expenses of other dependent children in the family.

(3) For purposes of subparagraph (A) of paragraph (2), the term "effective family income" with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or legal guardians of the student minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term "effective family income" includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

(4) In determining the expected family contribution under this section for any academic year after academic year 1981-1982, the Secretary shall establish a series of assessment rates to be applied to parental discretionary income.

(5) For the purposes of paragraph (2)(D), the assets shall be determined by—

(A) excluding all equity in a single principal place of residence from the computation of assets;

(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under subparagraph (A) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

(C) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents;

(D) in determining the family contribution for an independent student who has one or more dependents, provide that the assessment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

(2) For purposes of this title, the term "independent student" means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the student.

(d) For the purposes of this title, the term "cost of attendance" means—

(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

(3) an allowance for room and board costs incurred by the student which—

(A) beginning in academic year 1981-1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training;

(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

(6) for a student with dependent children, an allowance based on the expenses reasonably incurred for child care; and

(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if the basis for such adjustment is documented.

(20 U.S.C. 1089) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1445.

FORMS AND REGULATIONS

SEC. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into not less than three contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

(1) developing a common pre-eligibility Federal financial aid form,

(2) distributing and processing such form on a year-round basis free of charge to students, and

(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

(20 U.S.C. 1090) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1448.

STUDENT ELIGIBILITY [1]

SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

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[1] Section 1113 of the Department of Defense Authorization Act, 1983, provided for enforcement of the Military Selective Service Act as follows:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1113. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) Any person who is required under section 3 to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.

"(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

"(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

"(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV for failure to meet the registration requirements of section 3 and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than thirty days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose."

(b) The amendment made by subsection (a) shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning after June 30, 1983.

(20 U.S.C. 1091) **Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1448.**

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

SEC. 485. (a)(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this title;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

(2) For purposes of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

(20 U.S.C. 1092) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1449.

TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

(b) Financial assistance under this section may be used for—

(1) development of materials and inservice training and career awareness programs;

(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985.

(20 U.S.C. 1093) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1450.

PROGRAM PARTICIPATION AGREEMENTS

SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

(6) The institution will comply with the requirements of section 485.

(b)(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;

(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(c) For the purpose of this section the term "eligible institution" means any such institution described in section 435(a) of this Act.

(20 U.S.C. 1094) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1451.

TRANSFER OF ALLOTMENTS

SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(20 U.S.C. 1095) Enacted October 3, 1980. P.L. 96-374, sec. 451(a), 94 Stat. 1452.

ADMINISTRATIVE EXPENSES

SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

(20 U.S.C. 1096) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1453.

CRIMINAL PENALTIES

SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(20 U.S.C. 1097) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1453.

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

SEC. 491. (a) There is established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the "Commission").

(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

(c)(1) The Commission shall make a study of the following issues:

(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices of students;

(E) the impact of various levels of parent borrowing for postsecondary education on parents;

(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, and independent students;

(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate capital availability;

(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

(M) means to remove barriers to capital availability caused by patterns of lender discrimination;

(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital; and

(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

(2) The Commission shall make a study of the insurance premium charged by an insurer pursuant to section 428(b)(1)(H) in order to determine if the rate of the insurance premium exceeds the rate necessary to protect the reserves of the insurer and to determine if a statutory limit should be enacted for the rate of such premium.

(3)(A) The Commission shall make a study of an improved method or methods for determination of the quarterly rate of special allowances paid under part B of this title which the Commission determines will carry out the objectives set forth in section 438(a).

(B) The Commission shall make every effort to reach a unanimous decision with respect to the method for determination of the quarterly rate of the special allowances required to be studied by this paragraph.

(C) In developing the method for the determination of the quarterly rate of the special allowances under this paragraph, the Commission shall consider—

(i) the experiences of students and eligible lenders under the method in operation during the period of the study,

(ii) the administrative costs of various types of eligible lenders under part B of title IV,

(iii) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under such part, or substitute financial indicators which equitably represent the cost of such capital,

(iv) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

(v) such other factors as the Commission considers necessary to carry out the purposes of section 438(a).

(4) The Commission shall conduct a study to determine if institutions of higher education which meet the requirements of section 1201(a) (other than the provisions of subclauses (A) and (B) of clause (5) of such section), but fail to meet such requirements because the institution is not located in a State, should be included in the definition of institution of higher education under section 481.

(5) The Commission shall conduct a study to determine if student eligibility for financial assistance under section 484 on the basis of maintaining satisfactory academic progress should include provisions which would require that a student complete successfully a specified portion of the workload undertaken during the academic period for which assistance was received by the student.

(6) The Commission shall, in consultation with the National Center for Education Statistics, conduct longitudinal studies of high school students in order to determine the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

(7)(A) The Commission shall, in consultation with appropriate higher education associations and representatives from institutions of higher education, collect data necessary for the study of graduate education throughout the United States required by this paragraph. Such study shall—

(i) analyze trends and shortcomings in the sources of support available to students for the financing of graduate education, and compare the nature and level of support available in the various academic disciplines, including sources of support from student assistance and research programs sponsored by—

(I) the Federal Government,

(II) State and local governments,

(III) foundations, corporations, and other private entities, and

(IV) institutions of higher education, and

in addition, consider the resources of the students and the students' families;

(ii) examine the extent to which students may be dissuaded from pursuing graduate education on financial grounds, to the consequent detriment of—

(I) the major fields of knowledge which need to attract the most able and talented students of each generation if they are to remain strong and vigorous; and

(II) the Nation as a whole, if some of its most promising students are precluded because of financial circumstances from developing their capacities and abilities to the fullest possible extent;

(iii) investigate existing and projected levels of graduate student indebtedness, and consider the implications (for the students involved and for the health of graduate education generally) or existing and projected expectations for borrowing to meet the costs of graduate education;

(iv) assess the desirability of modifying existing Federal fellowship and student assistance programs or establishing a new Federal graduate student assistance program in which the selection of students and the amounts of their awards are based on merit or financial need or both, particularly with regard to the special needs of students in the humanities and social sciences or other disciplines; and

(v) examine and assess the financial and educational needs of individuals from disadvantaged backgrounds in order to enhance their participation in graduate and professional education and their potential for employment in occupational areas where these individuals are underrepresented.

(B) In conducting the study described in this paragraph, the Commission shall consult with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of higher education institutions and associations, learned societies, and professional organizations.

(8)(A) The Commission shall conduct a study of a proposal to amend the guaranteed student loan program authorized by part B of title IV by recapturing interest subsidies from borrowers who do not obtain loans for undergraduate study under such part by reason of need or who borrow under such part for graduate study to the extent such loans are made for graduate study. In conducting such study, the Commission shall analyze the long term effect on the Budget of the United States of recapturing the interest subsidy in accordance with such proposal outlined in this paragraph and the impact of such proposal on the availability of funds for postsecondary education for students.

(B) In conducting the study under this paragraph, the Commission shall also consider other alternative proposals designed to reduce the cost of the guaranteed student loan program under part B of title IV in fiscal years subsequent to fiscal year 1982 and the impact of such proposals on the availability of funds for postsecondary education for students.

(d)(1) The Commission shall prepare and submit reports and recommendations to the President and to the Congress on the studies required to be conducted under subsection (c) of this section. The reports for the studies required by paragraphs (2), (3), (5), and (8) of such subsection shall be submitted as soon as practicable but in no event later than one year after the date of the first meeting of the Commission. The reports for the studies required by paragraphs (1), (4), (6), and (7) shall be submitted as soon as practicable but in no event later than July 1, 1983.

(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

(3) The Commission shall cease to exist on November 1, 1983.

(e)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

(g)(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(4) For the purpose of securing the necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special ac-

count to the credit of the Commission for the purposes in each case specified.

(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(h) There is authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

(20 U.S.C. 1098) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1454; amended August 15, 1983, P.L. 98-79, sec. 11, 97 Stat. 484.

Student Financial Assistance Technical Amendments Act of 1982

(P.L. 97-301)

AN ACT To require a separate family contribution schedule for Pell Grants for academic years 1983-1984 and 1984-1985, to establish restrictions upon the contents of such schedule, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Student Financial Assistance Technical Amendments Act of 1982".

(20 U.S.C.1001, note) Enacted October 13, 1982, P.L. 97-301, sec. 1, 96 Stat. 1400.

MAXIMUM PELL GRANT

SEC. 2. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 under such Act shall be $1,800 or 50 percent of the cost of attendance (as defined under section 3 of this Act for academic year 1982-1983) at the institution at which the student is in attendance.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97-301, sec. 2, 96 Stat. 1400.

COST OF ATTENDANCE

SEC. 3. (a) Except as provided in subsection (b), but notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983-1984,,[1] 1984-1985, 1985-1986, and 1986-1987 shall be the same as those criteria in effect for academic year 1982-1983.

(b) The cost of attendance allowance for room and board for students not residing at home or in institutionally owned, or operated housing for the academic years 1984-1985, 1985-1986, and 1986-1987 shall be a standard amount determined by the institution of higher education based on the expenses reasonably incurred by such student for room and board, which shall be at least $1,100 but not more than $1,600.

(20 U.S.C. 1078a, note) Enacted October 13, 1982, P.L. 97-301, sec. 3, 96 Stat 1400; amended August 15, 1983, P.L. 98-79, sec. 4(a), 97 Stat. 479; amended October 19, 1984, P.L. 98-511, sec. 707(1), (2), 98 Stat. 2407.

SEPARATION OF PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education shall establish or approve separate systems of need analysis for the academic years 1983-1984, 1984-1985,,[1] 1985-1986, and 1986-1987 for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.

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[1] So in law.

[1] So in law.

(20 U.S.C. 1089, note) Enacted October 13, 1982, P.L. 97-301, sec. 4, 96 Stat. 1400; amended August 15, 1983, P.L. 98-79, sec. 4(a), 97 Stat. 479; amended October 19, 1984; P.L. 98-511, sec. 707(3), 98 Stat. 2407.

PELL GRANT FAMILY CONTRIBUTION SCHEDULES FOR ACADEMIC YEARS 1984-1985 AND 1985-1986

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1983-1984 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for each of the academic years 1984-1985, 1985-1986, and 1986-1987.

(b)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for each of the academic years 1984-1985, 1985-1986, and 1986-1987 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for the preceding academic year (as set by this section) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers is the change, expressed as a per centum, between the arithmetic mean of such index—

(A) for the period from October 1, 1981, through September 30, 1982, and the arithmetic mean of such index for the period from October 1, 1982, through September 30, 1983, in the case of the academic year 1984-1985;

(B) for the period from October 1, 1982, through September 30, 1983, and the arithmetic mean of such index for the period from October 1, 1983, through September 30, 1984, in the case of the academic year 1985-1986; and

(C) for the period from October 1, 1983, through September 30, 1984, and the arithmetic mean of such index for the period from October 1, 1984, through September 30, 1985, in the case of academic year 1986-1987.

(3) The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of this subsection immediately after publication by the Secretary of Labor of the Consumer Price Index for September 1983 (with respect to academic year 1984-1985), immediately after such publication for September 1984 (with respect to academic year 1985-1986), and immediately after such publication for September 1985 (with respect to academic year 1986-1987).

(c) For purposes of subsection (a), the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for each of academic years 1984-1985, 1985-1986, and 1986-1987—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be published in the Federal Register—

(1) not later than fifteen days after the date of enactment of the Student Loan Consolidation and Technical Amendments Act of 1983 for academic year 1984–1985;

(2) not later than April 1, 1984, for academic year 1985–1986; and

(3) not later than April 1, 1985, for academic year 1986–1987.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97-301, sec. 5, 96 Stat. 1400; amended August 15, 1983, P.L. 98-79, sec. 4(a), 97 Stat. 480; amended October 19, 1984, P.L. 98-511, sec. 707(3)-(6), 98 Stat. 2407.

INDEPENDENT STUDENT DETERMINATION

SEC. 6. Notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under section 482(c)(2) of the Higher Education Act of 1965, in effect for academic year 1982–1983 shall be the criteria for such determinations for each of the academic years 1983–1984, 1984–1985,,[1] *1985–1986, and 1986–1987.*

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97-301, sec. 6, 96 Stat. 1401, 1402; amended August 15, 1983, P.L. 98-79, sec. 4(a), 97 Stat. 481; amended October 19, 1984, P.L. 98-511, sec. 707(3), 98 Stat. 2407.

VETERANS ELIGIBILITY FOR PELL GRANTS FOR ACADEMIC YEAR 1982–1983

SEC. 7. Notwithstanding any other provisions of law, such sums as may be necessary not to exceed $30,000,000 of the amount appropriated by Public Law 97-257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97-92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97-301, sec. 7, 96 Stat. 1402.

* * *

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983, THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c), the family contribution schedule for the period of instruction from July 1, 1983, through June 30, 1984, from July 1, 1984, through June 30, 1985, and from July 1, 1985, through June 30, 1986, and from July 1, 1986, through June 30, 1987, for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983.

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[1] So in law.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, shall be modified by the Secretary of Education for use for each of the periods of instruction (beginning after June 30, 1983) described in subsection (a) to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than—

(1) April 1, 1983, for the period of instruction from July 1, 1983, through June 30, 1984;

(2) April 1, 1984, for the period of instruction from July 1, 1984, through June 30, 1985;

(3) April 1, 1985, for the period of instruction from July 1, 1985, through June 30, 1986; and

(4) April 1, 1986, for the period of instruction from July 1, 1986, through June 30, 1987,

and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

(20 U.S.C. 107, note) Enacted October 13, 1982, P.L. 97-301, sec. 9, 96 Stat. 1403; amended August 15, 1983, P.L. 98-79, sec. 4(b), 97 Stat. 481; amended October 19, 1984, P.L. 98-511, sec. 707(7), (8), 98 Stat. 2407, 2408.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

Sec. 10. Notwithstanding section 413D(a) of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(20 U.S.C. 1070b-3, note) Enacted October 13, 1982, P.L. 97-301, sec. 10, 96 Stat. 1403.

COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983, 1984, AND 1985

Sec. 11. Notwithstanding subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

(42 U.S.C. 2752, note) Enacted October 13, 1982, P.L. 97-301, sec. 11, 96 Stat. 1403.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

Sec. 12. Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

(20 U.S.C. 1087bb, note) Enacted October 13, 1982, P.L. 97-301, sec. 12, 96 Stat. 1404.

Higher Education Act of 1965 (Continued)

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

PART A—TEACHER CORPS PROGRAM

[Repealed effective October 1, 1982, P.L. 97-35, sec. 587(a), 95 Stat. 480.]

PART B—TEACHER TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 531. There are authorized to be appropriated $20,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, $50,000,000 for the fiscal year 1984, and $55,000,000 for the fiscal year 1985 to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 532 and 533. Each State shall receive grants sufficient to assure the establishment of one such teacher center in that State in such fiscal year.

(20 U.S.C. 1119) Enacted June 29, 1967, P.L. 90–35, sec. 6, 81 Stat. 91; amended June 23, 1972, P.L. 92–318, sec. 147(a)(1) and (2), 86 Stat. 287; further amended by sec. 148 (a), P.L. 92–318, 86 Stat. 287; amended Oct. 12, 1976, P.L. 94–482, sec. 153(a), 90 Stat. 2154; amended Nov. 1, 1978, P.L. 95–561, sec. 1321(a), 92 Stat. 2362, 2363; amended Oct. 3, 1980, P.L. 96–374, secs. 501(b), 503(a), 94 Stat. 1459.

TEACHER CENTERS

SEC. 532. [Repealed effective October 1, 1982, P.L. 97, 35, sec. 587(a), 95 Stat. 480.]

TRAINING FOR HIGHER EDUCATION PERSONNEL

SEC. 533. (a) The Secretary is authorized to make grants to schools of education for the purposes of—

(1) developing model projects within schools of education to carry out improved preservice or support activities for preparing elementary or secondary school teachers;

(2) achieving diversification and redirection of education programs for elementary and secondary school teachers in order to make maximum use of human resources in the fields of education and public service;

(3) retraining faculty members of such schools of education to provide courses of study for training elementary and secondary school teachers to teach in programs of career education, education of the gifted and talented children, education of handicapped individuals, community education, adult education programs, earth sciences, and other related programs;

(4) training and orientation projects for faculty members of schools of education designed to prepare the faculty to teach and train personnel to work in conjunction with personnel who carry out projects under the Comprehensive Employment and Training Act and under title VIII of this Act, relating to cooperative education and training of individuals to prepare for the workplace; and

(5) training educational personnel who will specialize in the implementation of the urban and environmental policies of the United States, and for other areas of critical need within education which are developing or are likely to develop as provided in section 406(b)(5) of the General Education Provisions Act.

(b) The Secretary is authorized to make grants to schools of education for the fiscal year 1981 and for each of the four succeeding years to carry out model projects for the purposes set forth in subsection (a). No grant may be made under this subsection unless an application is made to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c)(1) The Secretary is authorized to enter into agreements with consortia of schools of education for planning programs designed to help member schools of the consortium to diversify and redirect programs and curricula of the member schools of education.

(2)(A) The Secretary shall develop criteria for determining the regions of the country in which consortia of schools of education are to be established.

(B) No consortium may receive a grant in excess of $200,000 in any fiscal year under this section.

(C) No cooperative agreement may be entered into under this section unless an application is submitted through the State education agency of the State in which the applicant is located. Each such State agency will review and approve the application to assure its consistency with the comprehensive plan mandated by sections 404(a)(12) and 522(2) of the Elementary and Secondary Education Act of 1965. Such application shall be submitted at such time, in such manner, and containing or accompanied by such other information as the Secretary may reasonably require.

(d) For purposes of this section, the term "schools of education" means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of individuals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists.

(20 U.S.C. 1119a-1) Enacted Oct. 16, 1968, P.L. 90-575, sec. 239, 82 Stat. 1040-1041; amended Oct. 12, 1976, P.L. 94-482, sec. 153(a), 90 Stat. 2155; amended June 15, 1977, P.L. 95-43, sec. 1(a)(42), 91 Stat 217; amended October 3, 1980, P.L. 96-374, sec. 504, 94 Stat. 1460.

PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

GRANTS AUTHORIZED

SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and allowances to institutions of higher education for teachers to be trained to provide special education for handicapped children.

(b) The Secretary shall establish criteria for—

(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

(20 U.S.C. 1119b) Enacted October 3, 1980, P.L. 96-374, sec. 505(a), 94 Stat. 1461.

APPLICATION

SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe a fellowship program under which the State will make stipends to recipients and make allowances to institutions of higher education, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children, or

(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

(20 U.S.C. 1119b-1) Enacted October 3, 1980, P.L. 96-374, sec. 505(a), 94 Stat. 1462.

STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

(b) Each State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(20 U.S.C. 1119b-2) Enacted October 3, 1980, P.L. 96-374, sec. 505(a), 94 Stat. 1462.

FELLOWSHIP CONDITIONS

SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory progress and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation.

(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as it determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded.

(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

(20 U.S.C. 1119b–3) Enacted October 3, 1980, P.L. 96–374, sec. 505(a), 94 Stat. 1463.

DEFINITION

Sec. 545. As used in this part "special education" has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act.

(20 U.S.C. 111 b–4) Enacted October 3, 1980, P.L. 96–374, sec. 505(a), 94 Stat. 1463.

APPROPRIATIONS AUTHORIZED

Sec. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part.

(20 U.S.C. 1119b–5) Enacted October 3, 1980, P.L. 96–374, sec. 505(a), 94 Stat. 1463.

Part D—Coordination of Education Professional Development

FINDINGS

Sec. 551. The Congress finds that—

(1) many Federal programs have been enacted to train and develop education professionals;

(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

(4) such programs should be responsive to State needs and priorities for education professional development.

(20 U.S.C. 1119c) Enacted October 3, 1980, P.L. 96–374, sec. 506, 94 Stat. 1464.

POLICY

Sec. 552. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

(20 U.S.C. 1119c–1) Enacted October 3, 1980, P.L. 96–374, sec. 506, 94 Stat. 1464.

OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

Sec. 553. (a) There is established in the Department an Office of Education Professional Development, the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department to eliminate unnecessary duplication of effort.

(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

(1) identify inconsistencies in program policies and procedures;

(2) identify overlap in program purpose and operations; and

(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office.

(20 U.S.C. 1119c–2) Enacted October 3, 1980, P.L. 96–374, sec. 506, 94 Stat. 1464.

PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal years 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as "Carl D. Perkins Scholarships".

(b) There are authorized to be appropriated $20,000,000 for fiscal year 1986, $21,000,000 for fiscal year 1987, $22,000,000 for fiscal year 1988, and $23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.

(20 U.S.C. 1119d) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2894.

ALLOCATION AMONG STATES

SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

(20 U.S.C. 1119d–1) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2894.

GRANT APPLICATIONS

SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) The Secretary shall approve an application only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b),

(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the ten-year period after completing the postsecondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part;

(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

(A) a description of the procedures required to be established under paragraph (6); and

(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 567 and 568 of this part;

(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

(c) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

(20 U.S.C. 1119d-2) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2894.

AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

SEC. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

(20 U.S.C. 1119d-3) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2896.

SELECTION OF CARL D. PERKINS SCHOLARS

Sec. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, and parents.

(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 per centum of their graduating class. The State educational agency shall make applications available to high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

(20 U.S.C. 1119d-4) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2896.

SCHOLARSHIP CONDITIONS

Sec. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

(20 U.S.C. 1119d-5) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2897.

SCHOLARSHIP REPAYMENT PROVISIONS

Sec. 567. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 563(b)(4) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

(20 U.S.C. 1119d-6) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2897.

EXCEPTIONS TO REPAYMENT PROVISIONS

SEC. 568. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(20 U.S.C. 1119d-7) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2897.

FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 1119d-8) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2898.

PART F—NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

DECLARATION OF PURPOSE

SEC. 571. It is the purpose of this part to establish a national fellowship program for outstanding teachers.

(20 U.S.C. 1119e) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2898.

AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

SEC. 572. There are authorized to be appropriated $1,000,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.

(20 U.S.C. 1119e-1) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2898.

TALENTED TEACHER FELLOWSHIPS

SEC. 573. (a)(1) Except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the

level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 574.

(b) Talented teacher fellows may use such awards for such projects for improving public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

(20 U.S.C. 1119e–2) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2899.

SELECTION OF TALENTED TEACHER FELLOWSHIPS

SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

(20 U.S.C. 1119e–3) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2899.

EVALUATION OF APPLICATIONS

SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

(b) Announcement of awards shall be made in a public ceremony.

(20 U.S.C. 1119e–4) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2899.

FELLOWSHIP REPAYMENT PROVISIONS

SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.".

(20 U.S.C. 1119e–5) Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2900.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

FINDINGS AND PURPOSES

SEC. 601. (a) The Congress finds that—

(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

(20 U.S.C. 1121) Enacted Nov. 8, 1965, P.L. 89–329, sec. 601, 79 Stat. 1261; amended Nov. 3, 1966, P.L. 89–752, sec. 3(b), 80 Stat. 1241; amended Oct. 16, 1968, P.L. 90–575, secs. 241, 242, 82 Stat. 1041; amended June 23, 1972, P.L. 92–318, sec. 151(a), 86 Stat. 288; amended October 12, 1976, P.L. 94–482, sec. 156, 90 Stat. 2155, 2156; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1465.

GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

SEC. 602. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study.

(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of faculty, staff, and student travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad.

(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(20 U.S.C. 1122) Enacted Nov. 8, 1965, P.L. 89-329, sec. 602, 79 Stat. 1261; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1465.

INTERNATIONAL STUDIES CENTERS

SEC. 603. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

(20 U.S.C. 1123) Enacted November 8, 1965, P.L. 89-329, sec. 603, 79 Stat. 1262; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1466.

UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

(1) planning for the development and expansion of undergraduate programs in international studies;

(2) teaching, research, curriculum development, and other related activities;

(3) training of faculty members in foreign countries;

(4) expansion of foreign language courses;

(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis; and

(7) the development of an international dimension in teacher training.

(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

(20 U.S.C. 1124) Enacted November 8, 1965, P.L. 89-329, sec. 604, 79 Stat. 1263; amended November 3, 1966, P.L. 89-752, sec. 14, 80 Stat. 1244; amended October 16, 1968, P.L. 90-575, sec. 242, 82 Stat. 1041; amended October 12, 1976, P.L. 94-482, sec. 157, 90 Stat. 2156; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1466.

RESEARCH; STUDIES; ANNUAL REPORT

SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to—

(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields; and

(3) the development of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

(b) The Secretary shall prepare and publish an annual report listing of[1] the books and research materials produced with assistance under this title.

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[1] So in original. Word "of" probably should not appear.

(20 U.S.C. 1125) Enacted November 8, 1965, P.L. 89-329, sec. 605, 79 Stat. 1264; amended October 16, 1968; P.L. 90-575, sec. 242, 82 Stat. 1041; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467; amended December 21, 1982, P.L. 97-375, sec. 204, 96 Stat. 1823.

EQUITABLE DISTRIBUTION OF FUNDS

SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

(20 U.S.C. 1126) Enacted November 8, 1965, P.L. 89-329, sec. 606, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. There are authorized to be appropriated $45,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, $60,000,000 for fiscal year 1983, $70,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part.

(20 U.S.C. 1127) Enacted November 8, 1965, P.L. 89-329, sec. 607, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

FINDINGS AND PURPOSES

SEC. 611. (a) The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) It is the purpose of this part—

(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(20 U.S.C. 1130) Enacted October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467.

EDUCATION AND TRAINING PROGRAMS

SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

(20 U.S.C. 1130a) Enacted October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1468.

AUTHORIZATION OF APPROPRIATIONS

SEC. 613. There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.

(20 U.S.C. 1130b) Enacted October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1469.

PART C—GENERAL PROVISIONS

ADVISORY BOARD

SEC. 621. (a) Not less than four times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of—

(1) one member selected by the Secretary of State;

(2) one member selected by the Secretary of Defense;

(3) one member selected by the Secretary of the Treasury;

(4) one member selected by the Secretary of Commerce;

(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

(6) one member selected by the Chairman of the National Endowment for the Humanities;

(7) one member selected by the Director of the International Development Cooperation Agency;

(8) one member selected by the Director of the International Communication Agency;

(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

(10) one member selected by the Administrator, Small Business Administration;

(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

(13) three members selected by the Secretary from among members of the public; and

(14) three members selected by the Secretary from among representatives of the business community.

(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

(2) The first such subcommittee shall consider the grants made, or contracts entered into, under part A and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (A) any geographic areas of special need or concern to the United States, (B) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (C) innovative approaches which may help to fulfill the purposes of this title, (D) activities which are duplicative of programs operated under other provisions of Federal law, (E) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (F) the administrative and staffing requirements of international education programs in the Department.

(3) The second such subcommittee shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (A) changes which should be made to advance the purposes of part B and to assure the success of the programs authorized by part B, (B) special needs of such programs, and (C) any program elements which are duplicative of programs operated under other provisions of Federal law.

(20 U.S.C. 1131) Enacted Nov. 8, 1965, P.L. 89-329, sec. 621, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1469.

DEFINITIONS

SEC. 622. (a) As used in this title—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

(3) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

(4) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(20 U.S.C. 1132) Enacted Nov. 8, 1965, P.L. 89-329, sec. 622, 79 Stat. 1266; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1470.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES[1]

GENERAL PURPOSES

SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

(B) section 504 of the Rehabilitation Act of 1973, or

(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

(3) to enable such institutions to construct, reconstruct, or renovate the Nation's research facilities, including libraries, and to acquire special research equipment;

(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

(20 U.S.C. 1132a) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288; amended October 12, 1976, P.L. 94-482, secs. 161(a), 162(a)(3), 162(b), 90 Stat. 2157; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1472.

APPROPRIATIONS AUTHORIZED

SEC. 702. There are authorized to be appropriated $100,000,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part A. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part B. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each such fiscal year for section 734.

(20 U.S.C. 1132a-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288, 289; amended October 12, 1976, P.L. 94-482, sec. 162(a)(3), 90 Stat. 2157; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1472.

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[1] This authority contains provisions previously authorized by the Higher Education Facilities Act of 1963. Sec. 161(b)(1) of P.L. 92-318 provides as follows:

"(b)(1) The programs authorized by title VII of the Higher Education Act of 1965 shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963."

PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

STATE PLAN

SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

(B) certifying the Federal share of the cost of each project;

(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

(20 U.S.C. 1132b) Enacted October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1473.

BASIC CRITERIA

SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

(1) flexibility for States to accommodate the varied needs of institutions in the States;

(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

(20 U.S.C. 1132b–1) Enacted October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1473.

ALLOTMENT OF FUNDS

SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education.

(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

(i) 0.50, and

(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

(B) Notwithstanding subparagraph (A)—

(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

(2) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

(e) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January

1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

(g) Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

(20 U.S.C. 1132b-2) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1473.

PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

GRANTS

SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications.

(c) The amount of the grant shall not exceed 50 per centum of the development cost of the project.

(20 U.S.C. 1132c) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 293; amended October 12, 1976, P.L. 94-482, secs. 161(b), 162(e), 90 Stat. 2156; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475.

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

(1) not less than 20 per centum of the development cost of the project will be financed from non-Federal sources;

(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

(3) the project will be undertaken in an economical manner; and

(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950.

(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 4 per centum per annum, whichever is less.

(20 U.S.C. 1132d) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475.

GENERAL PROVISIONS FOR LOAN PROGRAM

SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell, exchange, or lease real or personal property and securities or obligations;

(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files,

and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, granting the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

(20 U.S.C. 1132d-1) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475.

REVOLVING LOAN AND INSURANCE FUND

SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the "fund") which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

(20 U.S.C. 1132d-2) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1476.

ANNUAL INTEREST GRANTS

SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

(20 U.S.C. 1132d-3) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1477.

ACADEMIC FACILITIES LOAN INSURANCE

SEC. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institutions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

(20 U.S.C. 1132d-4) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1477.

PART D—GENERAL

RECOVERY OF PAYMENTS

SEC. 741. (a) The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(20 U.S.C. 1132e) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 295; amended October 12, 1976, P.L. 94-482; sec. 161(c), 90 Stat. 2156; sec. 162(a)(3), 90 Stat. 2157; amended October 3, 1980; P.L. 96-374, sec. 701, 94 Stat. 1478.

DEFINITIONS

SEC. 742. The following definitions apply to terms used in this title:

(1)(A) Except as provided in subparagraph (B) of this paragraph, the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term "academic facilities" may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection.

(2)(A) The term "construction" means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction; and the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(B) The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Secretary by regulation; and the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term "development cost", with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term "Federal share" means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

(5) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

(6) The term "public community college and public technical institute" means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

(7) The term "public educational institution" does not include a school or institution of any agency of the United States.

(8) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1132e–1) Enacted June 23, 1972, P.L. 92–318, sec. 161, 86 Stat. 295; amended October 12, 1976, P.L. 94–482, sec. 162(a)(3), (a)(6), 90 Stat. 2157; amended October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1479.

TITLE VIII—COOPERATIVE EDUCATION

APPROPRIATIONS AUTHORIZED

SEC. 801. (a) There are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976, $13,000,000;

(2) for the fiscal year 1977, $15,000,000;

(3) for the fiscal year 1978, $20,000,000;

(4) for the fiscal years 1979 and 1980, $25,000,000; and

(5) for each of the fiscal years 1981, 1982, 1983, 1984, and 1985, $50,000,000, to enable the Secretary to make grants pursuant to section 802 to institutions of higher education, or to

combinations of such institutions, for the planning, establishment, expansion, or carrying out by such institutions or combinations of programs of cooperative education. Such programs shall provide alternating or parallel periods of academic study and of public or private employment, the latter affording students not only the opportunity to earn the funds necessary for continuing and completing their education but, so far as practicable, giving them work experience related to their academic or occupational objectives.

(b) There are further authorized to be appropriated—

(1) $1,000,000 for the fiscal year ending June 30, 1976, and the period beginning July 1, 1976, and ending September 30, 1976;

(2) $1,500,000 for the fiscal year 1977;

(3) $2,500,000 for the fiscal year 1978;

(4) $3,000,000 for each of the fiscal years 1978, 1979, and 1980; and

(5) $5,000,000 for each of the fiscal years 1981, 1982, 1983, 1984, and 1985,

to enable the Secretary to make training, demonstration, or research grants or contracts pursuant to section 803.

(c) Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this part.

(20 U.S.C. 1133) Enacted October 16, 1968, P.L. 90-575, sec. 251, 82 Stat. 1042; amended June 23, 1972, P.L. 92-318, sec. 172, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, sec. 129(b), 90 Stat. 2144, 2145; amended October 3, 1980, P.L. 96-374, secs. 801 (a), (b), 1391, 94 Stat. 1481, 1482, 1503.

GRANTS FOR PROGRAMS OF COOPERATIVE EDUCATION

SEC. 802. (a) From the sums appropriated pursuant to subsection (a) of section 801, and for the purposes set forth therein, the Secretary is authorized to make grants to institutions of higher education that have applied therefor in accordance with subsection (b) of this section, in amounts not in excess of $325,000 to any one such institution for any fiscal year, and to combinations of such institutions (that have so applied) in amounts not to exceed an amount equal to the product of $250,000 times the number of institutions participating in such combination, for any fiscal year.

(b) Each application for a grant authorized by subsection (a) of this section shall be filed with the Secretary at such time or times as he may prescribe and shall—

(1) set forth program or activities for which a grant is authorized under this section;

(2) specify the portion or portions of such programs or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activity not less than was expended for such purpose during the previous fiscal year;

(4) provide that the applicant shall make such reports and keep such records as are essential to insure that the appli-

cant's programs or activities are conducted in accordance with the provisions of this part;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this part; and

(6) include such other information as is essential to carry out the provisions of this part.

(c) No individual unit of institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than five fiscal years. No such institution or combination thereof may receive—

(1) a grant in excess of 100 per centum of the total administrative cost for the first of such fiscal years;

(2) a grant in excess of 90 per centum of such cost for the second of such years;

(3) a grant in excess of 80 per centum of such cost for the third of such years;

(4) a grant in excess of 60 per centum of such cost for the fourth of such years; or

(5) a grant in excess of 30 per centum of such cost for the fifth of such years.

Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

(d) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

(1) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by employers,

(2) the commitment of the institution of higher education to cooperative education as demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance, and

(3) such other factors as are consistent with the purposes of this section.

(20 U.S.C. 1133a) Enacted Oct. 16, 1968, P.L. 90-575, sec. 251, 82 Stat. 1043; amended June 23, 1972, P.L. 92-318, sec. 171, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, sec. 129(b), 90 Stat. 2145, 2146; amended October 3, 1980, P.L. 96-374, secs. 801(c), (d), 1391, 94 Stat. 1482, 1503.

GRANTS AND CONTRACTS FOR TRAINING AND RESEARCH

SEC. 803. From the sums appropriated pursuant to subsection (b) of section 801, the Secretary is authorized, for the training of persons in the planning, establishment, administration, or coordination of programs of cooperative education, for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education, or for research into methods of improving, developing, or promoting the use of cooperative education programs in institutions of higher education, to—

(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

(2) make grants to or contracts with other public or private nonprofit agencies or organizations, when such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(20 U.S.C. 1133b) Enacted Oct. 16, 1968, P.L. 90–575, sec. 251, 82 Stat. 1043; amended October 12, 1976, P.L. 94–482, sec. 129(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503.

TITLE IX—GRADUATE PROGRAMS

PART A—GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

PURPOSES; AUTHORIZATION

SEC. 901. (a) It is the purpose of this part to make financial assistance available to institutions of higher education—

(1) to maintain, strengthen, and improve the quality of graduate and professional programs leading to an advanced degree (other than a medical degree) in such institutions;

(2) to establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and

(3) to assist in strengthening undergraduate programs if instruction in the areas described in clauses (1) and (2), whenever the Secretary determines that strengthened undergraduate programs of instruction will contribute to the purposes of such clauses.

(b) The Secretary shall carry out a program of making grants to institutions of higher education to carry out the purposes set forth in subsection (a).

(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1985, for the purpose of this part.

(20 U.S.C. 1134) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94–482, sec. 171(a)(1), (a)(2), 90 Stat. 2159; amended October 3, 1980, P.L. 96–374, secs. 901(a), 1391, 94 Stat. 1482, 1503.

APPLICATIONS FOR GRANTS

SEC. 902. (a) The Secretary is authorized to make grants to institutions of higher education in accordance with the provisions of this part. An institution of higher education desiring to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out one or more of the purposes set forth in section 901(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes, and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) The Secretary shall approve an application only if he determines that the application (1) sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part, and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and the Secretary.

(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Secretary shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.

(20 U.S.C. 1134a) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305; amended October 12, 1976, P.L. 94-482, sec. 171(a)(3), 90 Stat. 2159; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

AUTHORIZED ACTIVITIES

SEC. 903. (a) The funds appropriated pursuant to section 901(c) may be used for such purposes as the Secretary determines will best accomplish the purposes of this part.

(b) Such funds may be used solely for the purposes set forth in an application approved under section 902 and solely for the purpose of accomplishing the purposes stated in section 901(a), and to that end such funds may be used for—

(1) faculty improvement;

(2) the maintenance and improvement of quality of graduate and professional programs of study;

(3) the acquisition of appropriate instructional equipment and materials;

(4) cooperative arrangements among graduate and professional schools;

(5) the strengthening of graduate and professional school administration; and

(6) the development of proposed graduate and professional programs; and

(7) needed innovation in graduate and professional programs.

(c) No sums granted under this part may be used—

(1) for payment in excess of 66⅔ per centum of the total cost of such project or activity;

(2) for payment in excess of 50 per centum of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any per centum of such cost, as determined by the Secretary, that is paid from sums received (other than under this part) as Federal financial assistance; or

(3) for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

(20 U.S.C. 1134b) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305, 306; amended October 12, 1976, P.L. 94-482, sec. 171(a)(4), 90 Stat. 2160; amended October 3, 1980; P.L. 96-374, secs. 901(b), 1391, 94 Stat. 1482, 1503.

RESEARCH AND STUDIES

SEC. 904. The Secretary is authorized, directly or by contract, to conduct studies and research activities in connection with the need for, and improvement of, graduate programs in various fields of study in institutions of higher education throughout the United States.

(20 U.S.C. 1134c) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306, amended October 3, 1980; P.L. 96-374, sec. 1391, 94 Stat. 1503.

PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

STATEMENT OF PURPOSE

SEC. 921. It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of post-baccalaureate education to graduate and professional students who demonstrate financial need.

(20 U.S.C. 1134d) Enacted June 30, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1482.

PROGRAM AUTHORIZED

SEC. 922. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

(b)(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

(2) The Secretary shall not make a grant to a single institution of higher education of less than $75,000 from the sums appropriated under this part for any fiscal year.

(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

(c) Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(d) In making grants to institutions of higher education, the Secretary shall—

(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school;

(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one mi-

nority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

(e) The Secretary shall assure that, in making grants under this part, awards are made to—

(1) individuals who plan to pursue a career in public service;

(2) individuals who plan to pursue advanced study in domestic mining and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium; and

(3) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1979.

(f) From sums required to be expended by the Secretary for grants under subsection (e), the Secretary may (in addition to the awards made to individuals) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(g) No fellowship shall be awarded under this part for study at a school or department of divinity.

(20 U.S.C. 1134e) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94–482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96–374, sec. 902(a), 94 Stat. 1482.

AWARD OF FELLOWSHIPS

SEC. 923. (a) An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed $4,500, or the demonstrated level of financial need according to measurements of need approved by the Secretary, whichever is lower.

(b) No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded and is not engaging in gainful employment other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the 3 year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

(20 U.S.C. 1134f) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306, 307; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2160, 2161; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1484.

AUTHORIZATION OF APPROPRIATIONS

SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $60,000,000 for each of the fiscal years 1981 and 1982 and such sums as may be necessary for the fiscal year 1983 and each of the succeeding fiscal years ending before October 1, 1985.

(20 U.S.C. 1134g) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 307; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2161, 2162; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1484.

PART C—NATIONAL GRADUATE FELLOWS PROGRAM

AWARD OF NATIONAL GRADUATE FELLOWSHIPS

SEC. 931. (a) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not more than 450 fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

(20 U.S.C. 1134h) Enacted October 3, 1980, P.L. 96-374, sec. 903, 94 Stat. 1484.

ALLOCATION OF FELLOWSHIPS

SEC. 932. (a)(1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community.

(2) The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) select each year the fields in which fellowships under this part are to be awarded;

(C) determine the number of fellowships each year to be awarded under this part in each designated field;

(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate.

(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years.

(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6)(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least four times a year.

(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS–18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

(20 U.S.C. 1134i) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1485.

STIPENDS

SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(20 U.S.C. 1134j) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486.

FELLOWSHIP CONDITIONS

SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134k) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486.

PART D—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

PROGRAM AUTHORIZED

SEC. 941. (a) The Secretary is authorized prior to October 1, 1985, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

(4) providing, for not more than six months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

(20 U.S.C. 1134l) Enacted October 3, 1980, P.L. 96–374, sec. 904, 94 Stat. 1486.

AUTHORIZATION OF APPROPRIATIONS

SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for fiscal year 1981, $5,000,000 for fiscal year 1982, $7,500,000 for fiscal year 1983, $7,500,000 for fiscal year 1984, and $10,000,000 for fiscal year 1985.

(20 U.S.C. 1134m) Enacted October 3, 1980, P.L. 96–374, sec. 904, 94 Stat. 1487.

PART E—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

PROGRAM AUTHORIZATION

SEC. 951. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

(2) office or house counsel problems; or

(3) factual investigation, empirical research, or policy or legal analysis.

(b) Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources;

(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

(7) such other items as are allowed pursuant to regulations issued by the Secretary.

(c) No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

(d) For the purpose of this part the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

(20 U.S.C. 1134n) Enacted October 3, 1980, P.L. 96-374, sec. 905, 94 Stat. 1487.

APPLICATIONS

SEC. 952. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

(1) is made at such time or times and contains such information as he may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

(20 U.S.C. 1134o) Enacted October 3, 1980, P.L. 96-374, sec. 905, 94 Stat. 1488.

AUTHORIZATION OF APPROPRIATIONS

SEC. 953. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $8,000,000 for the fiscal year 1982, $8,000,000 for the fiscal year 1983, $9,000,000 for the fiscal year 1984, and

$10,000,000 for the fiscal year 1985, to carry out the purposes of this part.

(20 U.S.C. 1134p) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1488.

TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Part A—Establishment and Operation of Fund

AUTHORIZATION OF PROGRAM

Sec. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(20 U.S.C. 1135) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 312, 313; amended October 12, 1976, P.L. 94–482, sec. 176(a)(3), (a)(4), (a)(5), 90 Stat. 2165; amended November 15, 1977, P.L. 95–180, 91 Stat. 1372; amended October 3, 1980, P.L. 96–374, sec. 1001(a), 94 Stat. 1489.

CONSULTATION

Sec. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

(20 U.S.C. 1135a) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1489.

NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(c) The Board shall—

(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(20 U.S.C. 1135a-1) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1490.

ADMINISTRATIVE PROVISIONS

SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter

51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(20 U.S.C. 1135a-2) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1490.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.

(20 U.S.C. 1135a-3) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1491.

PART B—ESTABLISHMENT OF AGENCIES

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL AND ADULT EDUCATION[1]

SEC. 1021. (a) There is hereby established in the United States Office of Education a Bureau of Occupational and Adult Education hereinafter referred to as the Bureau, which shall be responsible for the administration of the Vocational Education Act of 1963, including parts C and I hereof, the Adult Education Act, functions of the Office of Education relating to manpower training and development, functions of the Office relating to vocational, technical, and occupational training in community and junior colleges, and any other Act vesting authority in the Secretary for vocational, occupational, adult and continuing education and for those portions of any legislation for career education which are relevant to the purposes of other Acts administered by the Bureau.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Secretary) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Secretary,[2] and who shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

(2) Additional positions are created for, and shall be assigned to, the Bureau as follows:

(A) Three positions to be placed in grade 17 of such General Schedule, one of which shall be filled by a person with broad experience in the field of junior and community college education,

(B) Seven positions to be placed in grade 16 of such General Schedule, at least two of which shall be filled by persons with broad experience in the field of postsecondary-occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling, and

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[1] The Bureau of Occupational and Adult Education was abolished by section 503 of the Department of Education Organization Act (20 U.S.C. 3453), effective May 1980.

[2] Apparent error resulting from amendment made by section 1391 of P.L. 96-374.

(C) Three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

(20 U.S.C. 1135c) Enacted June 23, 1972, P.L. 92-218, sec. 186(a)(1), 86 Stat. 322, 323; amended October 3, 1980, P.L. 96-374, secs. 1001(b), 1391, 94 Stat. 1491, 1503.

COMMUNITY COLLEGE UNIT

SEC. 1022. (a) There is established, in the Office of Education, a Community College Unit (in this section referred to as the "Unit") which shall have the responsibility for coordinating all programs administered by the Secretary which affect, or can benefit, community colleges, including such programs assisted under this Act, and the Carl D. Perkins Vocational Educational Act.

(b) The Unit shall be headed by a Director who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code.

(20 U.S.C. 1135c-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 323; amended October 3, 1980, P.L. 96-374, secs. 1001(b), 1391, 94 Stat. 1491, 1503; amended October 19, 1984, P.L. 98-524, sec. 4(c)(3), 98 Stat. 2488.

TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

FINDINGS AND PURPOSE

SEC. 1101. (a) The Congress finds and declares—

(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

(20 U.S.C. 1136) Enacted Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1048; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1491.

APPROPRIATIONS AUTHORIZED

Sec. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $15,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $55,000,000 for fiscal year 1985.

(b) In the event of a multiple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(20 U.S.C. 1136a) Enacted Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1048-1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1491.

PROJECT ASSISTANCE

Sec. 1103. (a)(1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

(b) An application submitted under this section shall contain provisions designed to show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the need or needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Not more than one-half of such non-Federal share may be in the form of services, supplies, or equipment.

(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

(d) Each grant under this section shall be 90 per centum of the cost of the project for which assistance is granted.

(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an "urban grant university". The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

(20 U.S.C. 1136b) Enacted, Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 12,

1976, P.L. 94-482, sec. 172, 90 Stat. 2164; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1492.

LIMITATION

SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

(20 U.S.C. 1136c) Enacted October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1492.

DEFINITIONS

SEC. 1105. As used in this title—

(1) "urban area" means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part;

(2) "urban university" means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

(3) for the purposes of paragraphs (2) and (4) of this section, "institution of higher education" includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

(4) "resources" are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.

(20 U.S.C. 1136d) Enacted October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1492.

TITLE XII—GENERAL PROVISIONS

DEFINITIONS

SEC. 1201. As used in this Act—

(a) The term "institution of higher education"[1] means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.[2] For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[3]

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[1] Section 410 of title IV of P.L. 94-482 (Enacted October 12, 1976), 90 Stat. 2233, 2234 adds the following amendment to the Act of November 2, 1921 (25 U.S.C. 13): "Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an 'institution of higher education' under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions."

[2] This sentence was added by section 181(a) of P.L. 94-482, as amended by section 1(b)(7) of P.L. 95-43. Section 181(b) of P.L. 94-482, as added by section 1(b)(7) of P.L. 95-43, read as follows:

"(b) Neither the amendment made by subsection (a) of this section nor the amendment made to section 435(b)(1) of the Act (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) on the date of enactment of this Act. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act."

[3] State status for Higher Education Act purposes extended to Northern Mariana Islands and Trust Territory of the Pacific Islands by P.L. 95-180, November 15, 1977, 91 Stat. 1372. Section d of P.L. 95-180 prevents the invalidation of "any payments or other benefits provided under the Higher Education Act of 1965" to the Trust Territory of the Pacific Islands or the government of the Northern Mariana Islands prior to November 15, 1977 by any other provision of law.

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term "secondary school" means a school which provides secondary education as determine under State law except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Education.

(g) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary school, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(i) The term "elementary school" means a school which provides elementary education including education below grade 1, as determined under State law.

(j) The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(l) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(m) The term "Department" means the Department of Education.

(20 U.S.C. 1141) Enacted Nov. 8, 1965, P.L. 89-329, sec. 801, 78 Stat. 1269; amended Oct. 16, 1968, P.L. 90-575, secs. 251, 293, and 294, 82 Stat. 1042 and 1050-51; amended April 13, 1970, P.L. 91-230, sec. 806(b), 84 Stat. 192; subsection (l) added June 23, 1972, P.L. 92-318, sec. 131(d)(1), 86 Stat. 260; amended October 12, 1976, P.L. 94-482, sec. 181, 90 Stat. 2167; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503.

ANTIDISCRIMINATION

SEC. 1202. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

(20 U.S.C. 1145b) Enacted October 12, 1976, P.L. 94-482, sec. 182, 90 Stat. 2167; redesignated October 3, 1980, P.L. 96-374, sec. 2101, 94 Stat. 1493.

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

(4) the State has a comprehensive planning or policy formulation process which—

(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State, and

(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

(e)(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

(f) For the purposes of this section an "applicable program" is defined as—

(1) title I;

(2) subpart 3 of part A of title IV; and

(3) part A of title VII.

(20 U.S.C. 1143) Enacted October 3, 1980, P.L. 96-374, sec. 1201, 94 Stat. 1493.

TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as the Secretary deems necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants for any single program on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall, within eighteen months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified.

(c) Pending legislative implementation of the recommendations submitted by the Secretary under subsection (b), there are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1985 to support the cost of providing postsecondary education programs on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this subsection shall remain available until appropriated and sums appropriated under this subsection shall remain available until expended.

(20 U.S.C. 1144a) Enacted October 3, 1980, P.L. 96–374, sec. 1201, 94 Stat. 1495.

NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

SEC. 1205. (a) There is established in the Department of Education a National Advisory Committee on Accreditation and Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable concerning education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

(b) The term of office of each member of the Committee shall be three years, except that—

(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(c) The Committee shall, with respect to all matters pertaining to institutional eligibility—

(1) advise the Secretary with regard to the responsibility to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered, including advising the Secretary with respect to the criteria and procedures for carrying out such responsibility;

(2) advise the Secretary with regard to the responsibility to designate State agencies as reliable authorities on the quality of public postsecondary vocational education or training;

(3) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs; and

(4) carry out such other advisory functions relating to accreditation and institutional eligibility as may be assigned by the Secretary.

(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1985.

(20 U.S.C. 1145) Enacted October 3, 1980, P.L. 96-374, sec. 1201, 94 Stat. 1495.

Higher Education Amendments of 1968

(P.L. 90-575)

AN ACT To amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related Acts.

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DUPLICATION OF BENEFITS

SEC. 506. No grant, award, or loan of assistance to any student under any Act amended by this Act shall be considered a duplication of benefits for the purposes of section 1781 of title 38, United States Code.

(20 U.S.C. 1060) Enacted Oct. 16, 1968, P.L. 90-575, Title V, sec. 506, 82 Stat. 1063.

FINANCIAL AID TO STUDENTS NOT TO BE TREATED AS INCOME OR RESOURCES UNDER CERTAIN PROGRAMS

SEC. 507. For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act, no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education shall be considered to be income or resources.

(20 U.S.C. 1060) Enacted Oct. 16, 1968, P.L. 90-575, Title V, sec. 507, 82 Stat. 1063.

Education Amendments of 1972

(P.L. 92-318)

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LAND-GRANT STATUS FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 506. (a) The College of the Virgin Islands, the Community College of American Samoa, the College of Micronesia, and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301-305, 307, 308).

(b) In lieu of extending to the Virgin Islands, Guam, American Samoa, and Micronesia those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam and an equal amount to American Samoa and to Micronesia. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands, Guam, American Samoa, and Micronesia subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip.

Enacted June 23, 1972, P.L. 92-318, sec. 506, 86 Stat. 350; amended Oct. 3, 1980, P.L. 96-374, sec. 1361(a), 94 Stat. 1501.

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TITLE XIII—MISCELLANEOUS PROVISIONS

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Part G—New Land Grant Colleges

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

Sec. 1361. (a)[1] * * *

(b)[2] * * *

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands, or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

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Part I—Technical Provisions

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CONTRACT AUTHORITY

Sec. 1392. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATES

Sec. 1393. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 301 of this Act to title III of the Act shall take effect October 1, 1981.

(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act shall be effective October 1, 1979.

(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act shall take effect October 1, 1981.

(4) The amendments made by part B of title IV of this Act shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to out-

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[1] Subsection (a) of section 1361 of the Education Amendments of 1980 amended section 506 of the Education Amendments of 1972.

[2] Subsection (b) of section 1361 of the Education Amendments of 1980 amended section 5 of the Second Morrill Act.

standing loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 on the date on which the borrower enters into the note or other written evidence of the loan.

(5) The amendments made by part D of title IV of this Act shall apply to loans made under part E of the Act on or after October 1, 1980.

(6) The amendment made by section 701 of this Act adding section 731 of the Act shall apply to loans made under section 731 on or after October 1, 1980.

LAND-GRANT COLLEGES

First Morrill Act

AN ACT Donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: *Provided,* That no mineral lands shall be selected or purchased under the provisions of this act.

(7 U.S.C. 301) **Enacted July 2, 1862, ch. 130, sec. 1, 12 Stat. 503.**

SEC. 2. *And be it further enacted,* That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and wherever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands, within the limits of such State; and the Secretary of Interior is hereby directed to issue to each of the States, in which there is not the quantity of public lands subject to sale at private entry, at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other purposes whatsoever: *Provided,* That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any territory of the United States; but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry, at one dollar and twenty-five cents, or less, an acre: *And provided further,* That not more than one million acres shall be located by such assignees in any one of the States: *And provided further,* That no such location shall be made before one year from the passage of this act.

(7 U.S.C. 302) **Enacted July 2, 1862, ch. 130, sec. 2, 12 Stat. 503.**

SEC. 3. *And be it further enacted,* That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

(7 U.S.C. 303) **Enacted July 2, 1862, ch. 130, sec. 3, 12 Stat. 504.**

SEC. 4. That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sale of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided,* That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(7 U.S.C. 304) Enacted July 2, 1862, ch. 130, sec. 4, 12 Stat. 504; amended Mar. 3, 1883, ch. 102, 22 Stat. 484; amended Apr. 13, 1926, P.L. 113, 69th Cong., 44 Stat. 247.

SEC. 5. *And be it further enacted,* That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States;

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatsoever, to the purchase, erection, preservation, or repair of any building or buildings;

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as prescribed in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid;

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their costs and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior;

Fifth. When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionately diminished;

Sixth. No State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act;

Seventh. No State shall be entitled to the benefits of this act unless it shall express acceptance thereof by its legislature within three years from July 23, 1866: *Provided,* That when any Territory shall become a State and be admitted into the Union such new State shall be entitled to the benefits of the said act of July second, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act.

(7 U.S.C. 305) Enacted July 2, 1862, ch. 130, sec. 5, 12 Stat. 504; amended Mar. 3, 1873, ch. 231, sec. 3, 17 Stat. 559.

SEC. 6. * * *

(7 U.S.C. 306) Enacted July 2, 1862, ch. 130, sec. 6, 12 Stat. 505; repealed Dec. 16, 1930, P.L. 547, 71st Cong., sec. 1, 46 Stat. 1028.

SEC. 7. *And be it further enacted,* That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided,* That their maximum compensation shall not be thereby increased.

(7 U.S.C. 307) Enacted July 2, 1862, ch. 130, sec. 7, 12 Stat. 505.

SEC. 8. *And be it further enacted,* That the governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(7 U.S.C. 308) Enacted July 2, 1862, ch. 130, sec. 8, 12 Stat. 505.

Second Morrill Act

AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may hereafter be established, in accordance with the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety, the sum of five thousand dollars, in addition to the sums named in said act for the fiscal year ending June thirtieth, nineteen hundred and eight, and an annual increase of the amount of such appropriation thereafter for four years by an additional sum of five thousand dollars over the preceding year, and the annual sum to be paid thereafter to each State and Territory shall be fifty thousand dollars, to be applied only to instruction in food and agriculture sciences and to the facilities for such instruction: *Provided,* That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of food and agriculture sciences: *Provided,* That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided,* That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890 aided by such State from its revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under the said act, the legislature of such a State may propose and report to the Secretary of Health, Education, and Welfare a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(7 U.S.C. 322, 323) Enacted August 30, 1890, ch 841, sec. 1, 26 Stat. 417; amended March 4, 1907, P.L. 242, 59th Cong., 34 Stat. 1282; authority transferred with the

Office of Education to the Federal Security Agency July 1, 1939, 1939 Reorg. Plan No. 1, secs. 201, 204, 4 F.R. 2728, 53 Stat. 1424; transferred to the Dept. of H.E.W. April 11, 1953, 1953 Reorg. Plan No. 1, secs. 5, 8, 18 F.R. 2053, 67 Stat. 631; amended P.L. 97-98.

SEC. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Health, Education, and Welfare, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the colleges, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of Health, Education, and Welfare, on or before the first day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this Act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the appropriation herein made as shall become due to any State before the adjournment of the regular session of legislature meeting next after the passage of this Act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

(7 U.S.C. 324) Enacted August 30, 1890, ch. 841, sec. 2, 26 Stat. 418; amended April 21, 1976, P.L. 94-273, sec. 9(1), 90 Stat. 378.

SEC. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of Health, Education, and Welfare, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

(7 U.S.C. 325) Enacted August 30, 1890, ch. 841, sec. 3, 26 Stat. 418.

SEC. 4. That on or before the first day of October in each year, after the passage of this act, the Secretary of Health, Education, and Welfare shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Health, Education, and Welfare shall withhold a certificate for any State or Territory of its appropriation, the fact and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory, may, if it should so desire, appeal to Congress from the determination of the Secretary of Health, Education, and Welfare. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. And the Secretary of Health, Education, and Welfare is hereby charged with the proper administration of this law.

(7 U.S.C. 321, 326) Enacted August 30, 1890, ch. 841, sec. 4, 26 Stat. 419, amended April 21, 1976, P.L. 94-273, sec. 3(1), 90 Stat. 376.

Sec. 5. There is authorized to be appropriated annually for payment to the Virgin Islands, American Samoa, and Micronesia, and Guam the amount they would receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of this Act.

(7 U.S.C. 327) Enacted June 23, 1972, P.L. 92-318, sec. 506(c), 86 Stat. 350; amended October 3, 1980, P.L. 96-374, sec. 1361(b), 94 Stat. 1502.

Sec. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

(7 U.S.C. 328) Enacted August 30, 1890, ch. 841, sec. 5, 26 Stat. 419.

Bankhead-Jones Act

AN ACT Providing for research into basic laws and principles relating to agriculture, further development of cooperative agricultural extension work, and more complete endowment and support of land-grant colleges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 22. In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, and Guam entitled to the benefits of the Act entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic acts," approved July 2, 1862, as amended and supplemented (7 U.S.C. 301-328), there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriate, the following amounts:

(a) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,100,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter $4,360,000.

The sums appropriated in pursuance of paragraph (a) shall be paid annually to the several States, Puerto Rico, the Virgin Islands, and Guam in equal shares. The sums appropriated in pursuance of paragraph (b) shall be in addition to sums appropriated in pursuance of paragraph (a) and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, and Guam in the proportion to which the total population of each State, Puerto Rico, the Virgin Islands, and Guam bears to the total population of all the States, Puerto Rico, the Virgin Islands, and Guam as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under such Act of July 2, 1862, as amended and supplemented, and shall be applied only for the purposes of the colleges defined in such Act, as amended and supplemented. The provisions of law applicable to the use and payment of sums under the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July 2, 1862," approved August 30, 1890, as amended and supplemented, shall apply to the use and payment of sums appropriated in pursuance of this section.

(7 U.S.C. 329) Enacted June 29, 1935. P.L. 182, 74th Cong., sec. 22, 49 Stat. 439; amended June 29, 1952, P.L. 390, 82nd Cong., secs. 1-4, 66 Stat. 135, amended July 14, 1960, P.L. 86-658, sec. 1, 74 Stat. 525; amended June 23, 1972, P.L. 92-318, sec. 506(d), 86 Stat. 350, 351.

HOUSING ACT OF 1950

[Public Law 475, 81st Cong.; 64 Stat. 48, 77; 12 U.S.C. 1749]

* * * * * * *

TITLE IV—HOUSING FOR EDUCATIONAL INSTITUTIONS

FEDERAL ASSISTANCE IN THE FORM OF LOANS OR ANNUAL GRANTS

SEC. 401. (a) To assist educational institutions in providing housing and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction or purchase of such facilities or may, as an alternative to all or part of the loan (in the case of any such institution), make annual grants to the institution to reduce the cost of its borrowing from other sources for such construction or purchase: *Provided*, That no such assistance shall be provided unless (1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title, and (2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) Any educational institution which, prior to the date of enactment of this Act, has contracted for housing or other educational facilites may, in connection therewith, receive loans authorized under this title, as the Secretary may determine: *Provided*, That no such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this Act, or completed prior to the filing of an application under this title.

(c)(1) A loan to an educational institution may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary; shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by him; and with respect to loan contracts under which loan funds have not been fully disbursed prior to the date of enactment of the College Housing Amendments of 1955 shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 3 per centum per annum, or (B) the total of one-quarter of 1 per centum per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (e) of this section.

(2) Annual grants to an educational institution with respect to any housing or other educational facilities shall be made over a fixed period not exceeding 40 years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount equal to the difference between (A) the average annual debt service which

would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction or purchase of such facilities, and (B) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amount if the applicable interest rate were the rate specified in paragraph (1): *Provided*, That the amount on which such grant is based shall be approved by the Secretary but in no event shall exceed the total development cost of the facilities.

(d)(1) To obtain funds for loans under subsection (a) of this section, the Secretary may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $1,675,000,000, which amount shall be increased by $300,000,000 on July 1 in each of the years 1961 through 1965, and 1967, and 1968: *Provided*, That the amount outstanding for other educational facilities, as defined herein, shall not exceed $175,000,000, which limit shall be increased by $30,000,000 on July 1 in each of the years 1961 through 1968: *Provided further*, That the amount outstanding for hospitals, referred to in clause (2) of section 404(b) of this title, shall not exceed $100,000,000, which limit shall be increased by $30,000,000 on July 1 in each of the years 1961 through 1968 and, notwithstanding the first proviso of this subsection, the amount of this annual increase which is not utilized for loans for hospitals may be utilized for loans for other educational facilities, as defined herein.

(2) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary, together with loan principal and interest payments made by educational institutions assisted with loans made hereunder, for payment on notes or other obligations issued by the Secretary under this section.

(e) Notes or other obligations issued by the Secretary under this title shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the College Housing Amendments of 1955 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the lower of (1) 2¾ per centum per annum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Secretary and adjusted to the nearest one-eighth of 1 per centum. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this title and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(f)(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for the payment of annual grants to educational institutions in accordance with this section.

(2) Contracts for annual grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual grants which may be paid to educational institutions in any year pursuant to contracts entered into under this section shall not exceed $20,000,000 which amount shall be increased by $6,300,000 on July 1, 1970, and by $12,000,000 on July 1, 1971.

(g) Except as otherwise provided in the second paragraph of section 404(b), in the case of any loan which is made under this section to a nonprofit student housing cooperative corporation referred to in clause (5) of section 404(b), or which is obtained from other sources by such a corporation and is the subject of a contract for annual grants entered into under this section, the Secretary shall require that the note securing such loan be cosigned by the educational institution (referred to in clause (1) of such section) at which such corporation is located, and that, in the event of the dissolution of such corporation, title to the housing constructed with such loan will vest in such educational institution.

GENERAL PROVISIONS

SEC. 402. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this title, the Secretary notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code: *Provided*, That such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Funds made available to the Secretary pursuant to the provisions of this title shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of his functions under this title, and all funds available for carrying out the functions of the Secretary under this title (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) In the performance of, and with respect to, the functions, powers, and duties vested in him by this title, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this title;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, con-

tract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this title. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property: *Provided*, That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(6) obtain insurance against loss in connection with property and other assets held;

(7) subject to the specific limitations in this title, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this title;

(8) for the prepayment in full of a loan under this title, provide a discount in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan, if (A) the prepayment is made from non-Federal sources, (B) the Secretary has received satisfactory assurances that the housing or other educational facilities financed with the loan will continue to be used for purposes related to the educational institution for the original term of the loan, (C) the prepayment is made prior to October 1, 1984;[1] and

(10)[2] include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as he may deem necessary to assure that the purposes of this title will be achieved.

(d) Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this title if the amount of such contract does not exceed $1,000.

(e) The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this title.

(f) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this title, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1959, (1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended, and (2) shall be employed not more than forty hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed; but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

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[1] Section 308 of the Department of Education Appropriation Act, 1985 (P.L. 98–619) apparently intended to change "October 1, 1984" to "October 1, 1985" (98 Stat. 3329).

[2] So in original.

APPORTIONMENT

SEC. 403. Not more than 12½ per centum of the amount of the funds provided for in this title in the form of loans, and not more than 12½ per centum of the funds provided for in this title for grants, shall be made available to educational institutions within any one State.

DEFINITIONS

SEC. 404. For the purposes of this title, the following terms shall have the meanings, respectively, ascribed to them below:

(a) "Housing" means (1) new or existing structures suitable for dwelling use, includng single-room dormitories and apartments, and (2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(b) "Educational institution" means (1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this title, at least a two-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual), or (B) any public educational institution which (i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association, (ii) offers technical or vocational instruction, and (iii) provides residential facilities for some or all of the students receiving such instruction, (2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual, (3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual) (A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in clause (1) of this subsection without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization, and (B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 401, or is the subject of a contract for annual grants entered into under section 401, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose, (4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in clause (1) of this subsection, but nothing herein contained shall require an institution included in clause (1) of this subsection to obtain loans or grants through any instrumentality included in this clause of this subsection, and (5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in clause (1) of this subsection. In the case of any loan made under section 401 to a corporation described in clause (3) of this subsection which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in clause (5) of this subsection, and in the case of any loan which is obtained from other sources by such a corporation and is the subject of a contract for annual grants entered into under section 401, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions): *Provided*, That where the law of any State in effect on the date of enactment of the Housing Act of 1964[1] prevents the institution or institutions, for whose students or students and faculty and housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

(c) "Development cost" means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(d) "Faculties" means members of the faculty and their families.

(e) "State" shall include the several States, the District of Columbia, and the Territories and possessions of the United States.

(f) "Secretary" means the Secretary of Education.

(g) "Construction" means erection of new structures, or rehabilitation, alteration, conversion, or improvement of existing structures.

(h) "Other educational facilities" means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

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[1] September 2, 1964.

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Approved April 20, 1950.

Harry S Truman Memorial Scholarship Act

AN ACT To establish the Harry S Truman memorial scholarships, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Harry S Truman Memorial Scholarship Act".

STATEMENTS OF FINDINGS

Sec. 2. The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(20 U.S.C. 2001) Enacted January 4, 1975, Public Law 93-642, sec. 2, 88 Stat. 2276.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

(20 U.S.C. 2002) Enacted January 4, 1975, Public Law 93-642, sec. 3, 88 Stat. 2276.

Sec. 4. The Harry S Truman Scholarship Program as authorized by this Act shall be the sole Federal memorial to President Harry S Truman.

(20 U.S.C. 2003) Enacted January 4, 1975, Public Law 93-642, sec. 4, 88 Stat. 2277.

ESTABLISHMENT OF THE HARRY S TRUMAN SCHOLARSHIP PROGRAM

SEC. 5. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) (1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal Court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) The term of office of each member of the Board shall be six years; exept that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(20 U.S.C. 2004) Enacted January 4, 1975, Public Law 93-642, 88 Stat. 2277.

SCHOLARSHIPS

SEC. 6. (a) The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Scholarships under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) A student awarded a scholarship under this Act may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Each student awarded a scholarship under this Act must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(20 U.S.C. 2005) Enacted January 4, 1975, Public Law 93-642, 88 Stat. 2278.

SELECTION OF TRUMAN SCHOLARS

SEC. 7. (a) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(20 U.S.C. 2006) Enacted January 4, 1975, Public Law 93-642, sec. 7, 88 Stat. 2278.

STIPENDS

SEC. 8. Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost to such students for tuition, fees, books, room and board, or $5,000 whichever is less for each academic year of study.

(20 U.S.C. 2007) Enacted January 4, 1975, Public Law 93-642, sec. 8, 88 Stat. 2278.

SCHOLARSHIP CONDITIONS

SEC. 9. (a) A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this act. Such reports shall be accompanied by a certificate from any appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a).

(20 U.S.C. 2008) Enacted January 4, 1975, Public Law 93-642, sec. 9, 88 Stat. 2278.

TRUMAN MEMORIAL SCHOLARSHIP FUND

SEC. 10. (a) There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 14 of this act.

(b) It shall be the duty of the Secretary to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligation shall bear interest a a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eight of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(20 U.S.C. 2009) Enacted January 4, 1975, Public Law 93-642, sec. 10, 88 Stat. 2279.

EXPENDITURES FROM THE FUND

SEC. 11. (a) The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of the Act.

(b) The activities of the Foundation under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(20 U.S.C. 2010) Enacted January 4, 1975, Public Law 93-642, sec. 11, 88 Stat. 2279.

EXECUTIVE SECRETARY

SEC. 12. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the

General Schedule set forth in section 5332 of title 5, United States Code.

(20 U.S.C 2011) Enacted January 4, 1975, Public Law 93-642, sec. 12, 88 Stat. 2280.

ADMINISTRATIVE PROVISIONS

SEC. 13. (a) In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this Act.

(20 U.S.C. 2012) Enacted January 4, 1975, Public Law 93-642, sec. 14, 88 Stat. 2280.

APPROPRIATIONS AUTHORIZED

SEC. 14. There are authorized to be appropriated $30,000,000 to the fund.

(20 U.S.C. 2013) Enacted January 4, 1975, Public Law 93-642, sec. 14, 88 Stat. 2280.

PART II—NATIVE AMERICAN HIGHER EDUCATION

Navajo Community College Act[1]

(P.L. 92-189)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo Community College Act".

(25 U.S.C. 640a, note) Enacted December 15, 1971, P.L. 92-189, sec. 1, 85 Stat. 646.

PURPOSE

SEC. 2. It is the purpose of this Act to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

(25 U.S.C. 640a) Enacted December 15, 1971, P.L. 92-189, sec. 2, 85 Stat. 646.

GRANTS

SEC. 3. The Secretary of Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

(25 U.S.C. 640b) Enacted December 15, 1971, P.L. 92-189, sec. 3, 85 Stat. 646.

STUDY OF FACILITIES NEEDS

SEC. 4.[2] (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo

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[1] Enacted Dec. 15, 1971, P.L. 92-189, 84 Stat. 646.

This statute was amended Oct. 17, 1978 by Title II of the Tribally Controlled Community College Assistance Act of 1978 (entitled "Navajo Community College Assistance Act of 1978", P.L. 95-471, Title II, 92 Stat. 1329-1331) which includes the following congressional findings:

"CONGRESSIONAL FINDINGS

"SEC. 202. The Congress after careful study and deliberation, finds that—

"(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

"(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

"(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population, and

"(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act."

Section 203(b) of this Act (P.L. 95-471, Title II) states that "Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978."

[2] This section was expressly precluded from authorizing appropriations for the fiscal year beginning Oct. 1, 1978 by sec. 203(b) of P.L. 95-471.

Tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

(25 U.S.C. 640c) Enacted December 15, 1971, P.L. 92-189, sec. 4, 85 Stat. 646; amended October 17, 1978, P.L. 95-471, sec. 203(a), 92 Stat. 1330.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year beginning October 1, 1984, and for the three succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, an amount equal to the amount necessary for operation and maintenance of the college, including, but not limited to, administrative, academic, and operations and maintenance costs.

(2) No grant under this subsection shall exceed—

(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

(B) the total annual cost of the education program provided by such college,

whichever is less.

(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(25 U.S.C. 640c-1) Enacted October 17, 1978, P.L. 95-471, sec. 203(a), 92 Stat. 1330; amended October 3, 1980, P.L. 96-374, sec. 1351, 94 Stat 1501.

EFFECT ON OTHER LAWS

SEC. 6. Except as specifically provided by law, eligibility for assistance under this Act shall not, be itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(20 U.S.C. 640c-2) Enacted October 3, 1980, P.L. 96-374, section 1351(c), 94 Stat. 1501.

Tribally Controlled Community College Assistance Act of 1978

(P.L. 95–471)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

(25 U.S.C. 1801 note) Enacted October 17, 1978, P.L. 95–471, sec. 1, 92 Stat. 1325.

DEFINITIONS

SEC. 2. (a) For purposes of this Act, the term—

(1) "Indian" means a person who is a member of an Indian tribe;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a):

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours.

(4) Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.

(5) No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate, in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance, shall be taken into account.

(25 U.S.C. 1801) Enacted October 17, 1978, P.L. 95–471, sec. 1, 92 Stat. 1325; amended December 1, 1983, P.L. 98–192, sec. 1, 97 Stat. 1335.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

Sec. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(25 U.S.C. 1802) Enacted October 17, 1978, P.L. 95–471, title I, sec. 101, 92 Stat. 1325; amended December 1, 1983, P.L. 98–192, sec. 2, 97 Stat. 1336.

GRANTS AUTHORIZED

Sec. 102. (a) The Secretary shall, subject to appropriations, make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

(25 U.S.C. 1803) Enacted October 17, 1978, P.L. 95–471, title I, sec. 102, 92 Stat. 1326; amended December 1, 1983, P.L. 98–192, sec. 3, 97 Stat. 1336.

ELIGIBLE GRANT RECIPIENTS

Sec. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

(25 U.S.C. 1804) Enacted October 17, 1978, P.L. 95–471, title I, sec. 103, 92 Stat. 1326.

PLANNING GRANTS

SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or (2) to determine the need and potential for the establishment of such colleges.

(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

(25 U.S.C. 1804a) Enacted December 1, 1983, P.L. 98-192, sec. 4(a)(2), 97 Stat. 1336.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 105. The Secretary shall provide, upon request from a tribally controlled community college which is receiving funds under section 108, technical assistance either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

(25 U.S.C. 1805) Enacted October 17, 1978, P.L. 95-471, title I, sec. 104, 92 Stat. 1326; amended December 1, 1983, P.L. 98-192, secs. 4, 5, 97 Stat. 1336.

ELIGIBILITY STUDIES

SEC. 106. (a) The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a eligibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 107 for such fiscal year.

(25 U.S.C. 1806) Enacted October 17, 1978, P.L. 95–471, title I, sec. 105, 92 Stat. 1326; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 1, 1983, P.L. 98–192, sec. 3(b), 4(a)(1), (b)(1), 6(a), 97 Stat. 1336, 1337.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

Sec. 107. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a eligibility study has been conducted under section 106 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(25 U.S.C. 1807) Enacted October 17, 1978, P.L. 95–471, title I, sec. 106, 92 Stat. 1327; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 21, 1982, P.L. 97–375, title I, sec. 108(c), 96 Stat. 1820; amended December 1, 1983, P.L. 98–192, secs. 3(b), 4(a)(1), (b)(2), 6(b), 97 Stat. 1336, 1337.

AMOUNT OF GRANTS

Sec. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

(2)(A) $4,000 for fiscal year 1984,

(B) $5,025 for fiscal year 1985,

(C) $5,415 for fiscal year 1986, and

(D) $5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges.

(25 U.S.C. 1808) Enacted October 17, 1978, P.L. 95-471, title I, sec. 107, 92 Stat. 1327; amended December 21, 1982, P.L. 97-375, title I, sec. 108(c), 96 Stat. 1820, amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 7, 97 Stat. 1336, 1337.

EFFECT ON OTHER PROGRAMS

SEC. 109. (a) Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) For the purposes of sections 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of Part A of title IV of such Act.

(25 U.S.C. 1809) Enacted October 17, 1978, P.L. 95-471, title I, sec. 108, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 8, 97 Stat. 1336, 1337.

APPROPRIATION AUTHORIZATION

SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, $3,200,000 for each of the fiscal years 1985, 1986, and 1987.

(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for each of such fiscal years.

(3) There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out sections 112(b) and 113 for each of such fiscal years.

(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

(25 U.S.C. 1810) Enacted October 17, 1978, P.L. 95-471, title I, sec. 109, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 9, 97 Stat. 1336, 1337.

GRANT ADJUSTMENTS

SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) such applicant's Indian student count for the current fiscal year;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's Indian student count for the current fiscal year;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term "per capita payment" for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community

colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1983, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.

(c) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for allocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 107(a) of this title.

(25 U.S.C. 1811) Enacted October 17, 1978, P.L. 95-471, title I, sec. 110, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 4(b)(3), 10, 97 Stat. 1336, 1338.

REPORT ON FACILITIES

SEC. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after the date of enactment of this subsection. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c) For the purposes of this section, the term "reconstruction" has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B)).

(25 U.S.C. 1812) Enacted October 17, 1978, P.L. 95–471, title I, sec. 111, 92 Stat. 1328; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 11, 97 Stat. 1336, 1339.

CONSTRUCTION OF NEW FACILITIES

SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) In order to be eligible for a grant under this section, a tribally controlled community college—

(1) must be a current recipient of grants under section 105 or 107, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall

base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in futherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under the Act of November 2, 1921 (25 U.S.C. 13)) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) For the purposes of this section—

(1) the term "construction" includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B))); and

(2) the term "academic facilities" has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(1)).

(25 U.S.C. 1813) Enacted October 17, 1978, P.L. 95–471, title I, sec. 112, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 12, 97 Stat. 1336, 1340.

MISCELLANEOUS PROVISIONS

SEC. 114. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

(25 U.S.C. 1814) Enacted October 17, 1978, P.L. 95–471, title I, sec. 113, 92 Stat. 1329; amended December 1, 1983, sec. 4(a)(1), 97 Stat. 1336.

RULES AND REGULATIONS [1]

SEC. 115. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

(25 U.S.C. 1815) Enacted October 17, 1978, P.L. 95–471, title I, sec. 114, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 97 Stat. 1336.

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TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

PURPOSE

SEC. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

(25 U.S.C. 1831) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1341.

ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college shall be eligible for such a grant for a fiscal year if such college has been awarded a grant under section 333 of the Higher Education Act of 1965 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 306;

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[1] Public Law 98-192 (97 Stat. 1343), which reauthorized and amended the Act, included the following section:

"SEC. 15. In promulgating regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges."

(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(25 U.S.C. 1832) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1341.

USE OF FUNDS

SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(25 U.S.C. 1833) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1342.

COMPLIANCE WITH MATCHING REQUIREMENT

SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

(25 U.S.C. 1834) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1342.

ALLOCATION OF FUNDS

SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is availble for deposit as a capital contribution of that college in accordance with section 302(b)(3), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $350,000.

(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

(25 U.S.C. 1835) **Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1342.**

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. (a) There is authorized to be appropriated to carry out the provisions of this title $5,000,000 for each of the fiscal years 1985, 1986, and 1987.

(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

(25 U.S.C. 1836) **Enacted December 1, 1983, sec. 13, 97 Stat. 1343.**

PART III—MUSEUMS, ARTS AND HUMANITIES, NATIONAL SCIENCE FOUNDATION

National Foundation on the Arts and the Humanities Act of 1965

(P.L. 89-209)

AN ACT To provide for the establishment of the National Foundation on the Arts and the Humanities to promote progress and scholarship in the humanities and the arts in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENDOWMENTS FOR ARTS AND HUMANITIES

SHORT TITLE

SECTION 1. This title may be cited as the "National Foundation on the Arts and the Humanities Act of 1965".

(20 U.S.C. 951, note) Enacted Sept. 29, 1965, P.L. 89-202, sec. 1, 79 Stat. 845; amended May 31, 1984, P.L. 98-306, sec. 2, 98 Stat. 223.

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government;

(2) that a high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of man's scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future;

(3) that democracy demands wisdom and vision in its citizens and that it must therefore foster and support a form of education designed to make men masters of their technology and not its unthinking servant;

(4) that it is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations;

(5) that the practice of art and the study of the humanities requires constant dedication and devotion and that, while no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent;

(6) that the museums are vital to the preservation of our cultural heritage and should be supported in their role as curator of our national consciousness;

(7) that the world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit; and

(8) that, in order to implement these findings, it is desirable to establish a National Foundation on the Arts and the Humanities.

(20 U.S.C. 951) Enacted Sept. 29, 1965, P.L. 89-202, sec. 2, 79 Stat. 845; amended July 20, 1970, P.L. 91-346, sec. 2, 84 Stat. 443; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(1), 87 Stat. 462; amended May 31, 1984, P.L. 98-306, sec. 3, 98 Stat. 223.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "humanities" includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life.

(b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, and the study and application of the arts to human environment.

(c) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 5 of this Act.

(d) The term "project" means existing programs which further the purposes of this Act, and programs newly organized to further such purposes, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts, and includes, where appropriate, rental, or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the mem-

bers of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approved of the grant or contract involving an expenditure for such purpose; and

(2) the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic purpose, and (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(20 U.S.C. 952) Enacted Sept. 29, 1965, P.L. 89-209, sec. 3, 79 Stat 845; amended June 18, 1968, P.L. 90-348, secs. 1, 7, 82 Stat. 184, 187; amended July 20, 1970, P.L. 91-346, sec. 3, 84 Stat. 443; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(2), 87 Stat. 462; amended Dec. 4, 1980, P.L. 96-496, sec. 2, 94 Stat. 2583.

ESTABLISHMENT OF A NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 4. (a) There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the "Foundation"), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities,,[1] a Federal Council on the Arts and the Humanities, and an Institute of Museum Services (hereinafter established).

(b) The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this Act.

(c) In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(20 U.S.C. 953) Enacted Sept. 29, 1965, P.L. 89-209, sec. 4, 79 Stat. 846; amended May 31, 1984, P.L. 98-306, sec. 4, 98 Stat. 223.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE ARTS

SEC. 5. (a) There is established within the Foundation a National Endowment for the Arts.

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[1] P.L. 98-306, 98 Stat. 223, added an unnecessary comma.

(b)(1) The Endowment shall be headed by a chairman, to be known as the Chairman of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairman shall be four years and the Chairman shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairman. Upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

(c) The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups, or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards of authenticity, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(5) programs for the arts at the local level; and

(6) other relevant projects, including surveys, research, planning, publications relating to the purposes of this subsection.

In the case of publications under clause (5) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairman under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury.

(d) No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairman.

(e) The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of the Internal Revenue Code of 1954.

(g)(1) The Chairman, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairman and accompany such applications with a plan which the Chairman finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c); and

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may from time to time require.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairman for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairman in equal amounts but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the

Chairman, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided*, That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term "State" includes, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out section 5(c).

(h) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

(2) a State agency is not complying substantially with terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they are allotted or paid,

the Chairman shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer and default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (j) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.

(j) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(k) The Chairman shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs. The Chairman may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.

(l)(1) The Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups to promote effective arts activity at the State and local level, including support of professional artists in community-based residencies;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; and

(F) fostering greater citizens involvement in planning the cultural development of a community.

(2) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Arts shall have the same authority as is established in section 5(c) and section 10.

(20 U.S.C. 954) Enacted Sept. 29, 1965, P.L. 89-209, sec. 5, 79 Stat. 846; amended Sept. 11, 1967, P.L. 90-83, sec. 10(b), 81 Stat. 223; amended June 18, 1968, P.L. 90-348, secs. 2, 3, 82 Stat. 185; amended July 20, 1970, P.L. 91-346, secs. 4, 5(a)(1), 6, 7, 84 Stat. 443, 455; amended Oct. 19, 1973, P.L. 93-133, secs. 2(a)(3), (4), 87 Stat. 462; amended Dec. 24, 1973, P.L. 93-198, sec. 421, 87 Stat. 789; amended Oct. 8, 1976, P.L. 94-462, secs. 101, 102, 90 Stat. 471; amended Dec. 4, 1980, P.L. 96-496, secs. 102, 109(a), (b), 94 Stat. 2583, 2591.

NATIONAL COUNCIL ON THE ARTS

SEC. 6. (a) There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the "Council").

(b) The Council shall be composed of the Chairman of the National Endowment for the Arts, who shall be Chairman of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(1) from among private citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts;

(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(3) so as collectively to provide an appropriate distribution of membership among the major art fields.

The President is requested, in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to him by leading national organizations in these fields.

(c) Each member shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members shall expire on the third day of September in the year of expiration. No member shall be eligible for reappointment during the two-year period following the expiration of his term. Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office.

(d) The Council shall meet at the call of the Chairman but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS-18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties, or responsibilities under this Act, and (2) review applications for financial assistance under this Act and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of an application involving $17,500 or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council; *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to sub-paragraph (A) of paragraph (1) of section 11(a).

(20 U.S.C. 955) Enacted Sept. 29, 1965, P.L. 89-209, sec. 6, 79 Stat. 849; amended June 18, 1968, P.L. 90-348, sec. 4, 82 Stat. 185; amended July 20, 1970, P.L. 91-346, sec. 5(b), 84 Stat. 144; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(5), 87 Stat. 463; amended Oct. 8, 1976, P.L. 94-462, sec. 103(a), 90 Stat. 1971; amended Dec. 4, 1980, P.L. 96-496, sec. 103, 94 Stat. 2584; amended May 31, 1984, P.L. 98-306, sec. 5, 98 Stat. 224.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 7. (a) There is established within the Foundation a National Endowment for the Humanities.

(b)(1) The Endowment shall be headed by a chairman, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairman shall be four years, and the Chairman shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairman. Upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

(c) The Chairman, with the advice of the National Council on the Humanities (hereinafter established), is authorized to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements (including contracts, grants, loans, and other forms of assistance) with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate non-profit institu-

tions selected by the recipient of such aid, for stated periods of time;

(4) foster the interchange of information in the humanities;

(5) foster, through grants or other arrangements with groups, education in, and public understanding and appreciation of the humanities;

(6) support the publication of scholarly works in the humanities; and

(7) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons.

In the case of publications under clause (6) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

(d) The Chairman shall correlate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs.

(e) The total amount of any grant under subsection (c)(3) to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f)(1) The Chairman, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date of the enactment of the Arts and Humanities Act of 1980, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairman finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(ii) provides that the chief executive of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph; and

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may require.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that four members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 20 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c);

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities; and

(H) provides that such grant recipient will make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairman shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairman for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairman; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairman in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment, shall

be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term "State" and the term "grant recipient" include, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

(7) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

> (A) a group or grant recipient is not complying substantially with the provisions of this subsection;
>
> (B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan grant recipient application approved under this subsection; or
>
> (C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairman shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in paragraphs (4), (5), and (6), the Chairman may not make grants under this subsection to more than one entity in any State.

(g) It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection.

(h)(1) The Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grant-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairman, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 11(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment on the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairman of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section 10.

(20 U.S.C. 956) Enacted Sept. 29, 1965, P.L. 89–209, sec. 7, 79 Stat. 850; amended Sept. 11, 1967, P.L. 90–83, sec. 10(b), 81 Stat. 223; amended July 20, 1970, P.L. 91–

346, sec. 8, 84 Stat. 445; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(6), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94-462, secs. 104(a), 105, 301(b), 90 Stat. 1971, 1974, 1979; amended Dec. 4, 1980, P.L. 96-496, secs. 104, 109(c), 94 Stat. 2588, 2591.

ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

SEC. 8. (a) There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) The Council shall be composed of the Chairman of the National Endowment on the Humanities, who shall be the Chairman of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be selected on the basis of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities.

(c) Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of his term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office.

(d) The Council shall meet at the call of the Chairman but not less often than twice during each calendar year. Fourteen members shall constitute a quorum.

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS-18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 11(a).

(20 U.S.C. 957) Enacted Sept. 29, 1965, P.L. 89-209, sec. 8, 79 Stat. 851; amended July 18, 1968, P.L. 90-348, sec. 4, 82 Stat. 186; amended July 20, 1970, P.L. 91-346, sec. 5(c), 84 Stat. 444; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(7), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94-462, sec. 103(b), 90 Stat. 1971; amended Dec. 4, 1980, P.L. 96-496, sec. 105, 94 Stat. 2587; amended May 31, 1984, P.L. 98-306, sec. 5, 98 Stat. 224.

ESTABLISHMENT OF THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 9. (a) There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Commissioner on Aging, a member designated by the Secretary of State, and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission of Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members. The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal programs or executive branch organization.

(c) The Council shall—

(1) advise and consult with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events; and

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems.

(d)(1) The Council shall conduct a study of the state of employment opportunities for professional artists. Such study shall be undertaken in cooperation and consultation with the Secretary of Labor and shall address in particular (A) the effectiveness of existing Federal programs, such as programs administered under the Comprehensive Employment and Training Act, in serving and enhancing the employment opportunities of professional artists; and (B) the need for new programs to serve and enhance the employment opportunities of professional artists.

(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.

(3) Notwithstanding any other provision of law, no Federal agency or officer of the Federal Government shall have any authority to require the Council to submit the report required in paragraph (2) to any Federal agency or officer of the Federal Government for approval, comments, or review, before submission of such report to the Congress. The President may make such additional comments and recommendations with respect to the contents of such report as he may deem appropriate.

(e)(1) The Council shall conduct a study of (A) the effectiveness of the program authorized by the Arts and Artifacts Indemnity Act (20 U.S.C. 971 et seq.); (B) the impact and feasibility of expanding the existing indemnity program to include the indemnification of objects loaned by lenders located in the United States for exhibition exclusively in the United States; and (C) other means to encourage and facilitate the wider sharing within the United States of the items described in section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a)), such as the development of standardized insurance policies and the development of a Federal technical assistance program to improve the curatorial facilities and personnel of museums.

(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.

(20 U.S.C. 958) Enacted Sept. 29, 1965, P.L. 89-209, sec. 9, 79 Stat. 851; amended July 20, 1970, P.L. 91-346, sec. 9, 84 Stat. 446; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(8), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94-452, sec. 208, 90 Stat. 1977; amended Dec. 4, 1980, P.L. 96-496, secs. 106, 109(d), 94 Stat. 2587; amended May 31, 1984, P.L. 98-306, sec. 6, 98 Stat. 224.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In addition to any authorities vested in them by other provisions of this Act, the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as he deems necessary governing the manner in which his functions shall be carried out;

(2) in the discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairman use other funds of that Endowment for the purposes of the gift, except that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 6(f) and 8(f), and may receive gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c);

(3) to appoint employees, subject to the civil service laws, as necessary to carry out his functions, define their duties, and supervise and direct their activities;

(4) to utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a): *Provided, however,* That any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic and culturally diverse representation;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

In any case in which any money or other property is donated, bequeathed, or devised to the Foundation (A) without designation of the Endowment for the benefit of which such property is intended, and (B) without condition or restriction other than it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairman of an Endowment shall have authority to receive such property. In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairman of an Endowment shall have authority to receive such property. For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised. For the purpose of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairman of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(b) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairman deems appropriate.

(c) The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

(d)(1) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities each shall conduct a study of the use, sale, or other disposal of property under subsection (a)(2) for the purpose of carrying out sections 5(c) and 7(c). Each such study shall assess in particular (A) the effectiveness of such use, sale, or other disposal of property as an incentive for increasing the levels of non-Federal support; and (B) the extent to which activities carried out by each such Chairman under subsection (a)(2) result in undue administrative and financial burdens upon grant recipients.

(2) Not later than two years after the date of the enactment of the Arts and Humanities Act of 1980, each Chairman shall submit a report to the President and to the Congress relating to the results of the studies required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.

(20 U.S.C. 959) Enacted Sept. 29, 1965, P.L. 89-209, sec. 10, 79 Stat. 852; amended June 18, 1968, P.L. 90-348, sec. 5, 82 Stat. 186; amended July 20, 1970, P.L. 91-346, sec. 5(a)(3), 84 Stat. 443; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(9), (10), 87 Stat. 465; amended Dec. 4, 1980, P.L. 96-496, sec. 107, 94 Stat. 2588.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a)(1)(A) For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $128,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g).

(B) For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $127,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f).

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (5) of section 5(c);

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under paragraph (1) through paragraph (7) of section 7(c);

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $11,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 5(l)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 5(l)(1);

except that the amounts so appropriated to such Endowment shall not exceed $27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $28,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 7(h)(1);

except that the amounts so appropriated to such Endowment shall not exceed $30,000,000 for fiscal year 1981, $33,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.

(4) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 5(e), section 5(l)(2), section 7(f), and section 7(h)(2), as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this Act.

(b)(1) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this Act, appropriations authorized under subsection (a) are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

(c)(1) There are authorized to be appropriated to the National Endowment for the Arts $14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

(d) No grant shall be made under this title to a workshop (other than a workshop conducted by a school, college, or university) for a production for which direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

(20 U.S.C. 960) Enacted Sept. 29, 1965, P.L. 89-209, sec. 11, 79 Stat. 853; amended June 18, 1968, P.L. 90-348, sec. 6, 82 Stat. 167; amended July 20, 1970, P.L. 91-346, secs. 5(a)(4), 12, 84 Stat. 444; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(11), 87 Stat. 465; amended Oct. 8, 1976, P.L. 94-462, secs. 106(a), 302, 401(b), 90 Stat. 1974, 1980, 1981; amended Oct. 19, 1976, P.L. 94-555, sec. 219(b), 90 Stat. 2629; amended Dec. 4, 1980, P.L. 96-496, sec. 108, 94 Stat. 2589; amended May 31, 1984, P.L. 98-306, sec. 7, 98 Stat. 224-225.

Museum Services Act

(P.L. 94-462)

AN ACT To amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

* * * * * * *

TITLE II—MUSEUM SERVICES

SHORT TITLE

SEC. 201. This title may be cited as the "Museum Services Act".

(20 U.S.C. 961 note) Enacted October 8, 1976, P.L. 94-462, Title II, sec. 201, 90 Stat. 1975.

PURPOSE

SEC. 202. It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

(20 U.S.C. 961) Enacted October 8, 1976, P.L. 94-462, Title II, sec. 205, 90 Stat. 1975.

INSTITUTE OF MUSEUM SERVICES

SEC. 203. There is hereby established within the National Foundation on the Arts and the Humanities, an Institute of Museum Services. The Institute shall consist of a National Museum Services Board and a Director of the Institute.

(20 U.S.C. 962) Enacted Oct. 8, 1976, P.L. 462, Title II, sec. 203, 90 Stat. 1975; amended Dec. 4, 1980, P.L. 96-496, sec. 201(a), 94 Stat. 2591; amended May 31, 1984, P.L. 98-306, sec. 8, 98 Stat. 225.

NATIONAL MUSEUM SERVICES BOARD

SEC. 204. (a)(1) The Board shall consist of fifteen members appointed by the President by and with the advice and consent of the Senate. Such members shall be broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational, and cultural resources of the United States, and of the general public.

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(2)(A) In addition to members appointed by the President under paragraph (1), the following persons shall serve as members of the Board—

(i) the Chairman of the National Endowment for the Arts;

(ii) the Chairman of the National Endowment for the Humanities;

(iii) the Secretary of the Smithsonian Institution; and

(iv) the Director of the National Science Foundation.

(B) The members of the Board listed in clause (i) through clause (iv) of subparagraph (A) shall be nonvoting members.

(b) The term of office of the appointed members of the Board shall be five years, except that—

(1) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have expired at the time of such appointment; and

(2) in the case of initial members, three shall serve for terms of five years, three shall serve for terms of four years, three shall serve for terms of three years, three shall serve for terms of two years, and three shall serve for terms of one year, as designated by the President at the time of nomination for appointment.

Any appointed member who has been a member of the Board for more than seven consecutive years shall thereafter be ineligible for reappointment to the Board during the three-year period following the expiration of the last such consecutive year. Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term of office until his successor takes office.

(c) The Chairman of the Board shall be designated by the President from among the appointed members of the Board. Except as provided in subsection (d)(2), eight appointed members of the Board shall constitute a quorum.

(d) The Board shall meet at the call of the Chairman, except that—

(1) it shall meet not less than four times each year; and

(2) it shall meet whenever one-third of the appointed members request a meeting in writing, in which event seven of the appointed members shall constitute a quorum.

(e) Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for grade GS–18 set forth in section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

(f) The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this title. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(g) The Board shall, with the advice of the Director, take steps to assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government.

(20 U.S.C. 963) Enacted, Oct. 8, 1976, Title II, sec. 204, 90 Stat. 1976, 1976; amended Dec. 4, 1980, P.L. 96-496, sec. 201(b), 94 Stat. 2592; amended May 31, 1984, P.L. 98-306, sec. 9, 98 Stat. 225.

DIRECTOR OF THE INSTITUTE

SEC. 205. (a)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule (5 U.S.C. 5316), and shall perform such duties and exercise such powers as the Board may prescribe.

(2) The Director shall not delegate any of his functions to any other officer who is not directly responsible to the Director.

(b) The Director shall advise the Board regarding policies of the Institute to assure coordination of the Institute's activities with other agencies and organizations of the Federal Government having interest in and responsibilities for the improvement of museums. Such Government agencies shall include the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation, appropriate units in the Department of Education, the Library of Congress, and the Smithsonian Institution and related organizations.

(c) The Director may appoint without regard to the provisions of title 5, United States Code, governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not to exceed one-fifth of the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate prescribed for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(20 U.S.C. 964) Enacted Oct. 8, 1976, P.L. 94-462, Title II, sec. 205, 90 Stat. 1976, 1977; amended Dec. 4, 1980, P.L. 96-496, sec. 201(c), 94 Stat. 2592; amended May 31, 1984, P.L. 98-306, sec. 10, 98 Stat. 225.

ACTIVITIES OF THE INSTITUTE

SEC. 206. (a) The Director, subject to the policy direction of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as—

(1) programs to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining professionally-trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting them in conservation of artifacts and art objects; and

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

(b)(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations in order to enable such organizations to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2)(A) No financial assistance may be provided under this subsection for any project for a period in excess of one year.

(B) No financial assistance may be provided under this subsection to pay for the operational expenses of any professional museum organization.

(3) The aggregate amount of financial assistance made under this subsection to professional museum organizations shall not exceed 5 percent of the amount appropriated under this Act for such fiscal year.

(4) For purposes of this subsection, the term "professional museum organization" means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.

(c) Grants, contracts, and cooperative agreements under this section for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant or financial assistance is made, except that not more than 20 per centum of the funds available under this section for any fiscal year may be available for grants or financial assistance in such fiscal year without regard to such limitation.

(d) The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this section. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this section shall not be subject to any review outside of the Institute.

(20 U.S.C. 965) Enacted Oct. 8, 1976, Title II, sec. 206, 90 Stat. 1977; amended Dec. 4, 1980, P.L. 96-496, sec. 201(d), 94 Stat. 2592.

CONTRIBUTIONS

SEC. 207. The Institute shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Institute. Such grants, gifts, or bequests, after acceptance by the Institute, shall be paid by the donor or his representative to the Treasurer of the United States whose receipt shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Institute for the purposes in each case specified.

(20 U.S.C. 966) Enacted Oct. 8, 1976, Title II, sec. 207, 90 Stat. 1977.

FUNCTIONS OF FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

Sec. 208. [Contained amendments to section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965.]

AUTHORIZATION OF APPROPRIATIONS

Sec. 209. (a) For the purpose of making grants under section 206 (a), there are authorized to be appropriated $25,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $20,150,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985.

(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this title.

(c) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(d) For the purpose of enabling the Institute to carry out its functions under this title, during the period beginning on the date of the enactment of this Act and ending October 1, 1985, there is authorized to be appropriated an amount equal to the amount contributed during such period to the Institute under section 207.

(20 U.S.C. 967) Enacted Oct. 8, 1976, Title II, Sec. 209, 90 Stat. 1978; amended Dec. 4, 1980, P.L. 96-496, sec. 201(e), 94 Stat. 2593; amended May 31, 1984, P.L. 98-306, sec. 11, 98 Stat. 225.

DEFINITIONS

Sec. 210. For the purpose of this title, the term—

(1) "Board" means the National Museum Services Board established under section 203;

(2) "Director" means the Director of the Institute established under section 203;

(3) "Institute" means the Institute of Museum Services established under section 203; and

(4) "Museum" means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis.

(20 U.S.C. 968). Enacted Oct. 8, 1976, P.L. 94-462, Title II, sec. 210, 90 Stat 1978.

Arts and Artifacts Indemnity Act

(P.L. 94-158)

AN ACT To provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Arts and Artifacts Indemnity Act."

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94-158, sec. 1, 89 Stat. 844.

FEDERAL COUNCIL

SEC. 2. (a) The Federal Council on the Arts and Humanities (hereinafter in this Act referred to as the "Council"), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to make agreements to indemnity against loss or damage such items as may be eligible for such indemnity agreements under section 3—

(1) in accordance with the provisions of this Act; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this Act and, consistent with such purposes, to protect the financial interest of the United States.

(b) For purposes of this Act, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5, United States Code.

(20 U.S.C. 972) Enacted Dec. 20, 1975, P.L. 94-158, sec. 2, 89 Stat. 844.

ELIGIBLE ITEMS

SEC. 3. (a) The Council may make an indemnity agreement under this Act with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

(b)(1) An indemnity agreement made under this Act shall cover eligible items while on exhibition in the United States, or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered.

(2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date of the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(20 U.S.C. 972) Enacted Dec. 20, 1975, P.L. 94-158, sec. 3, 89 Stat. 844.

APPLICATION

SEC. 4. (a) Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this Act shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 3(a); and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this Act, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(20 U.S.C. 973) Enacted Dec. 20, 1975, P.L. 94-158, 89 Stat. 845.

INDEMNITY AGREEMENT

SEC. 5. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 4, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this Act, the Council shall, after approval of the application as provided in subsection (c) of section 4, make an indemnity agreement.

(b) The aggregate of loss or damage covered by indemnity agreements made under this Act shall not exceed $400,000,000 at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $50,000,000.

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; or

(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.

(20 U.S.C. 974) Enacted Dec. 20, 1975, P.L. 94-158, sec. 5, 89 Stat. 845; amended Dec. 4, 1980, P.L. 96-496, secs. 301, 302, 94 Stat. 2593.

REGULATIONS

Sec. 6. (a) The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 5, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 5, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(20 U.S.C. 975) Enacted Dec. 20, 1975, P.L. 94-158, sec. 6, 89 Stat. 845.

AUTHORIZATION OF APPROPRIATIONS

Sec. 7. There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this Act, and (2) to pay claims certified pursuant to section 6(b).

(20 U.S.C. 976) Enacted Dec. 20, 1978, P.L. 94-158, sec. 7, 89 Stat. 846.

REPORT

Sec. 8. The Council shall report annually to the Congress (1) all claims actually paid pursuant to this Act during the preceding fiscal year, (2) pending claims against the Council under this Act as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.

(20 U.S.C. 977) Enacted Dec. 20, 1975, P.L. 94-158, sec. 8, 89 Stat. 846.

EFFECTIVE DATE

Sec. 9. This Act shall become effective 30 days after the date of the enactment of this Act.

(20 U.S.C. 971, note) Enacted Dec. 20, 1975, P.L. 94-158, sec. 9, 89 Stat. 846.

National Science Foundation Act of 1950

AN ACT To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Act of 1950."

(42 U.S.C. 1861, note) Enacted May 10, 1950, c. 171, sec. 1, 64 Stat. 149.

ESTABLISHMENT OF NATIONAL SCIENCE FOUNDATION

SEC. 2. There is hereby established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director.

(42 U.S.C. 1861) Enacted May 10, 1950, c. 171, sec. 2, 64 Stat. 149.

FUNCTIONS OF THE FOUNDATION

SEC. 3. (a) The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to

provide a source of information for policy formulation by other agencies of the Federal Government; and

(7) to initiate and maintain a program for the determination of the total amount of money for scientific research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

(b) The foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14(g), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

(c) In addition to the authority contained in subsections (a) and (b), the Foundation is authorized to initiate and support scientific research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) The Foundation shall render an annual report to the President for submission on or before the 15th day of April of each year to the Congress, summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights.

(42 U.S.C. 1862) Enacted May 10, 1950, c. 171, sec. 3, 64 Stat. 149; amended July 11, 1958, P.L. 85-510, sec. 1, 72 Stat. 353; amended September 8, 1959, P.L. 86-232, sec. 1, 73 Stat. 467; amended July 8, 1968, P.L. 90-407, sec. 1, 82 Stat. 360; amended August 10, 1972, P.L. 92-372, sec. 8, 86 Stat. 523; amended October 13, 1972, P.L. 92-484, sec. 10(b), 86 Stat. 802; amended April 21, 1976, P.L. 94-273, sec. 11(3), 90 Stat. 378; August 15, 1977, P.L. 95-99, sec. 14(a), 91 Stat. 835.

NATIONAL SCIENCE BOARD

SEC. 4. (a) The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women or who represent minority groups. In addition to any powers and functions otherwise granted to it by this Act, the Board shall establish the policies of the Foundation.

(b) The Board shall have an Executive Committee as provided in section 7, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this Act as it deems appropriate.

(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management or public affairs; (2) shall be selected solely on the basis of established records of distinguished service and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific or educational organizations.

(d) The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call of such meeting.

(f) The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

(g) The Board shall render an annual report to the President, for submission on or before the 31st day of April of each year to the Congress, on the status and health of science and its various disciplines. Such report shall include an assessment of such matters as national scientific resources and trained manpower, progress in selected areas of basic scientific research, and an indication of those aspects of such progress which might be applied to the needs of American society. The report may include such recommendations as the Board may deem timely and appropriate.

(h) The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-15 of the General Schedule under section 5332 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this Act. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 14(a).

(i) The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this Act.

(j) The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this Act.

(j) The Board shall render an annual report to the President, for submission to the Congress on or before March 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Foundation or with which the Board in its official role as the policymaking body of the Foundation is concerned.

(42 U.S.C. 1863) Enacted May 10, 1950, c. 171, sec. 4, 64 Stat. 150; amended September 8, 1959, P.L. 86-232, sec. 2, 73 Stat. 467; amended June 11, 1960, P.L. 86-507, sec. 1(36), 74 Stat. 202; amended July 18, 1968, P.L. 90-407, sec. 2, 82 Stat. 361; amended April 21, 1976, P.L. 94-273, sec. 11(3), 90 Stat. 378; amended May 11, 1976, P.L. 94-471, § 9, 90 Stat. 2057; August 15, 1977, P.L. 95-99, sec. 14(b), 91 Stat. 835; December 12, 1980, P.L. 96-516, sec. 21(a), 94 Stat. 3010; December 21, 1982, P.L. 97-375, sec. 214, 96 Stat. 1826.

DIRECTOR OF THE FOUNDATION

SEC. 5. (a) The Director of the Foundation (referred to in this Act as the "Director") shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and shall serve for a term of six years unless sooner removed by the President.

(b) Except as otherwise specifically provided in this Act (1) the Director shall exercise all of the authority granted to the Foundation by this Act (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this Act (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this Act, including functions delegated to him by the Board; except that the Director may not redelegate policy-making functions delegated to him by the Board.

(d) The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e) The Director shall not make any contract, grant, or other arrangement pursuant to section 11(c) without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000 or less than $500,000 in any one year or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action.

(f) The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board.

(42 U.S.C. 1864) Enacted May 10, 1950, c. 171, sec. 5, 64 Stat. 151; amended September 8, 1959, P.L. 86-232, sec. 3, 73 Stat. 467; amended July 8, 1968, P.L. 90-407, sec. 3, 82 Stat. 362.

DEPUTY DIRECTOR AND ASSISTANT DIRECTORS

SEC. 6. (a) There shall be a Deputy Director of the Foundation (referred to in this Act as the "Deputy Director") who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(b) There shall be four Assistant Directors of the Foundation (each referred to in this Act as an "Assistant Director") who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as an Assistant Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. Each Assistant Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe.

(42 U.S.C. 1864a) Enacted July 18, 1968, P.L. 90-407, sec. 4, 82 Stat. 363.

EXECUTIVE COMMITTEE

SEC. 7. (a) There shall be an Executive Committee of the Board (referred to in this Act as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b), and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports.

(42 U.S.C. 1865) Enacted May 10, 1950, c. 171, sec. 6, 64 Stat. 151; amended September 8, 1959, P.L. 86-232, § 4, 73 Stat. 467; renumbered and amended July 18, 1968, P.L. 90-407, sec. 4, 5, 82 Stat. 363, 364.

DIVISIONS WITHIN THE FOUNDATION

SEC. 8. There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine.

(42 U.S.C. 1866) Enacted May 10, 1950, c. 171, sec. 7, 64 Stat. 152; renumbered and amended July 18, 1968, P.L. 90-407, sec. 4, 6, 82 Stat. 363, 364.

SPECIAL COMMISSIONS

SEC. 9. (a) Each special commission established pursuant to section 4(i) shall consist of eleven members appointed by the Board, six of whom shall be eminent scientists and five of whom shall be persons other than scientists. Each special commission shall choose its own chairman and vice chairman.

(b) It shall be the duty of each special commission to make a comprehensive survey of research, both public and private, being carried on in its field, and to formulate and recommend to the Foundation at the earliest practicable date an overall research program in its field.

(42 U.S.C. 1868) Enacted May 10, 1950, c. 171, sec. 9, 64 Stat. 152; amended July 18, 1968, P.L. 90-407, sec. 7, 82 Stat. 364.

SCHOLARSHIPS AND GRADUATE FELLOWSHIPS

SEC. 10. The Foundation is authorized to award, within the limits of funds made available specifically for such purpose pursuant to section 16, scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens or nationals of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships, fellowship or fellowships shall be awarded to the applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States. Nothing contained in this Act shall prohibit the Foundation from refusing or revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant or recipient, if the Board is of the opinion that such award is not in the best interests of the United States.

(42 U.S.C. 1869) Enacted May 10, 1950, c. 171, sec. 10, 64 Stat. 152; amended September 8, 1959, P.L. 86-233, sec. 5, 73 Stat. 468; amended June 29, 1960, P.L. 86-550, 74 Stat. 256; amended October 16, 1962, P.L. 87-835, § 2, 76 Stat. 1070; amended July 18, 1968, P.L. 90-407, sec. 8, 82 Stat. 364.

GENERAL AUTHORITY OF FOUNDATION

SEC. 11. The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this Act;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of State or Secretary of Defense, specific scientific activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. §5);

(d) to make advance, progress, and other payments which relate to scientific activities without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. § 529);

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation;

(g) to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest, without regard to the provisions of section 87 by the Act of January 12, 1895 (28 Stat. 622), and section 11 of the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C. §501);

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller-General of the United States, the extent to which vouchers for funds expended under contracts for scientific research shall be subject to itemization or substantiation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor; and

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct.

(42 U.S.C. 1870) Enacted May 10, 1950, c. 171, sec. 11, 64 Stat. 153; amended September 8, 1959, P.L. 86–232, sec. 6, 73 Stat. 468; amended July 18, 1968, P.L. 90–407, sec. 9, 82 Stat. 365.

PATENT RIGHTS

SEC. 12. (a) Each contract or other arrangement executed pursuant to this Act which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however,* That nothing in this Act shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(b) No officer or employee of the Foundation shall acquire, retain, or transfer any rights, under the patent laws of the United States or otherwise, in any invention which he may make or produce in connection with performing his assigned activities and which is directly related to the subject matter thereof: *Provided, however,* That this subsection shall not be construed to prevent any officer or employee of the Foundation from executing any application for patent on any such invention for the purpose of assigning the same to the Government or its nominee in accordance with such rules and regulations as the Director may establish.

(42 U.S.C. 1871) Enacted May 10, 1950, c. 171, sec. 12, 64 Stat. 153.

INTERNATIONAL COOPERATION AND COORDINATION WITH FOREIGN POLICY

SEC. 13. (a) The Foundation is hereby authorized to cooperate in any international scientific activities consistent with the purposes of this Act and to expend for such international scientific activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists to accredited international scientific congresses and meetings whenever he deems it necessary in the promotion of the objectives of this Act. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs, granting fellowships to, or making other similar arrangements with, foreign nationals for scientific study or scientific work in the United States without regard to section 10 or the affidavit of allegiance to the United States required by section 15(d)(2) of this Act.

(b)(1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 11(c), and the authority to cooperate in international scientific activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.

(42 U.S.C. 1872) Enacted May 10, 1950, c. 171, sec. 13, 64 Stat. 154; amended September 8, 1959, P.L. 86-232, sec. 7, 73 Stat. 468; amended July 18, 1968, P.L. 90-407, sec. 10, 82 Stat. 365.

MISCELLANEOUS PROVISIONS

SEC. 14. (a) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act. Except as provided in section 4(h), such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided,* That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this Act. The members of the special commissions shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(b) Neither the Director, the Deputy Director, nor any Assistant Director shall engage in any other business, vocation, or employment while serving in such position; nor shall the Director, the Deputy Director, or any Assistant Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any grant, contract, or other arrangement under this Act.

(c) The Foundation shall not, itself, operate any laboratories or pilot plants.

(d) The members of the Board and the members of each special commission shall receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the rate specified for the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(e) Persons holding other offices in the executive branch of the Federal Government may serve as members of the special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(f) In making contracts or other arrangements for scientific research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) aiding institutions, agencies or organizations which, if aided, will advance scientific research, and (4) encouraging independent scientific research by individuals.

(g) Funds available to any department or agency of the Government for scientific or technical research, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(h) For purposes of this Act, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(i) Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorizaton was enacted, to the extent that such appropriation has not theretofore actually been made.

(42 U.S.C. 1873) Enacted May 10, 1950, c. 171, sec. 14, 64 Stat. 154; renumbered July 11, 1958, P.L. 85-510, sec. 2, 72 Stat. 353; amended September 8, 1959, P.L. 86-232, sec. 8, 73 Stat. 469; renumbered and amended July 18, 1968, P.L. 90-407, sec. 11(2), 12, 82 Stat. 365, 366; amended November 18, 1969, P.L. 91-120, sec. 3, 83 Stat. 203; amended August 15, 1977, P.L. 95-99, sec. 14(c), 92 Stat. 835.

SECURITY PROVISIONS

SEC. 15. (a) The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authoriity pursuant to section 11(e) in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this Act shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b)(1) In the case of scientific or technical research activities under this Act in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 14(g) of this Act, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific research activities under this Act in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is hereby authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(c)(1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this Act shall be used to make payments under any scholarship or fellowship awarded to any individual under section 10, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of title 18, United States Code, shall be applicable with respect to the oath or affirmation and statement herein required.

(2)(A) When any Communist organization, as defined in paragraph (5) of section 3 of the Subversive Activities Control Act of 1950, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 10 of this Act, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(42 U.S.C. 1874) Enacted May 10, 1950, c. 171, sec. 15, 64 Stat. 156; amended April 5, 1952, c. 159, sec. 1, 66 Stat. 43; renumbered July 11, 1958, P.L. 85-510, sec. 2, 72 Stat. 353; amended October 16, 1962, P.L. 87-835, sec. 1, 76 Stat. 1069; renumbered and amended July 18, 1968, P.L. 90-407, sec. 11(2), 13, 82 Stat. 365, 366; amended December 12, 1980, P.L. 96-516, sec. 21(b), 94 Stat. 3010.

APPROPRIATIONS

SEC. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.

(42 U.S.C. 1875) Enacted May 10, 1950, c. 171, sec. 16, 64 Stat. 156.

PART IV—ASSISTANCE TO SPECIFIED INSTITUTIONS

Act of March 2, 1867

AN ACT To incorporate the Howard University in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established, and is hereby established, in the District of Columbia, a university for the education of youth in the liberal arts and sciences, under the name, style, and title of "The Howard University."

SEC. 2. *And be it further enacted,* That Samuel C. Pomeroy, Charles B. Boynton, Oliver O. Howard, Burton C. Cook, Charles H. Howard, James B. Hutchinson, Henry A. Brewster, Benjamin F. Morris, Danforth B. Nichols, William G. Finney, Roswell H. Stevens, E. M. Cushman, Hiram Barber, E. W. Robinson, W. F. Bascom, J. B. Johnson, and Silas L. Loomis, be, and they are hereby, declared to be a body politic and corporate, with perpetual succession in deed or in law to all intents and purposes whatsoever, by the name, style, and title of "The Howard University," by which name and title they and their successors shall be competent, at law and in equity, to take to themselves and their successors, for the use of said university, any estate whatsoever in any messuage, lands, tenements, hereditaments, goods, chattels, moneys, and other effects, by gift, devise, grant, donation, bargain, sale, conveyance, assurance, or will; and the same to grant, bargain, sell, transfer, assign, convey, assure, devise, declare, to use and farm let, and to place out on interest, for the use of said university, in such manner as to them, or a majority of them, shall be deemed most beneficial to said institution; and to receive the same, their rents, issues, and profits, income and interest, and to apply the same for the proper use and benefit of said university; and by the same name to sue and be sued, to implead and be imple[a]ded, in any courts of law and equity, in all manner of suits, actions, and proceedings whatsoever, and generally by and in the same name to do and transact all and every the business touching or concerning the premises: *Provided,* That the same do not exceed the value of fifty thousand dollars net annual income, over and above and exclusive of the receipts for the education and support of the students of said university.

SEC. 3. *And be it further enacted,* That the first meeting of said corporators shall be holden at the time and place at which a majority of the persons herein above named shall assemble for that purpose; and six days' notice shall be given each of said corporators, at which meeting said corporators may enact by-laws not inconsistent with the laws of the United States regulating the government of the corporation.

SEC. 4. *And be it further enacted,* That the government of the university shall be vested in a board of trustees, of not less than thirteen members, who shall be elected by the corporators at their first meeting. Said board of trustees shall have perpetual succession in deed or in law, and in them shall be vested the power hereinbefore granted to the corporation. They shall adopt a common seal, which they may alter at pleasure, under and by which all deeds, diplomas, and acts of the university shall pass and be authenticated. They shall elect a president, a secretary, and a treasurer. The treasurer shall give such bonds as the board of trustees may direct. The said board shall also appoint the professors and tutors, prescribing the number, and determining the amount of their respective salaries. They shall also appoint such other officers, agents, or employees, as the wants of the university may from time to time demand, in all cases fixing their compensation. All meetings of said board may be called in such manner as the trustees shall prescribe, and nine of them so assembled shall constitute a quorum to do business, and a less number may adjourn from time to time.

Sec. 5. *And be it further enacted,* That the university shall consist of the following departments, and such others as the board of trustees may establish: First, normal; second, collegiate; third, theological; fourth, law; fifth, medicine; sixth, agriculture.

Sec. 6. *And be it further enacted,* That the immediate government of the several departments, subject to the control of the trustees, shall be entrusted to their respective faculties, but the trustees shall regulate the course of instruction, prescribe, with the advice of the professors, the necessary text-books, confer such degrees, and grant such diplomas as are usually conferred and granted in other universities.

Sec. 7. *And be it further enacted,* That the board of trustees shall have power to remove any professor or tutor or other officers connected with the institution, when, in their judgment, the interest of the university shall require it.

Sec. 8. Annual appropriations are hereby authorized to aid in the construction, development, improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Bureau of Education and shall be inspected by the said bureau at least once each year. An annual report making a full exhibit of the affairs of the university shall be presented to Congress each year in the report of the Bureau of Education.

Sec. 9. *And be it further enacted,* That no misnomer of the said corporation shall defeat or annul any donation, gift, grant, devise, or bequest to or from the said corporation.

Sec. 10. *And be it further enacted,* That the said corporation shall not employ its funds or income, or any part thereof in banking operations or for any purpose or object other than those expressed in the first section of this act; and that nothing in this act contained shall be so construed as to prevent Congress from altering, amending, or repealing the same.

Approved, March 2, 1867.

TITLE II—HOWARD UNIVERSITY ENDOWMENT

SHORT TITLE

SEC. 201. This title may be cited as the "Howard University Endowment Act".

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

DEFINITIONS

SEC. 202. For purposes of this title—

(1) the term "endowment fund" means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term "endowment fund corpus" means an amount equal to the grants awarded under this title plus an amount equal to such grants provided by Howard University;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this title minus the endowment fund corpus;

(4) the term "Secretary" means the Secretary of Education; and

(5) the term "University" means the Howard University established by the Act of March 2, 1867.

(20 U.S.C. 130aa) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this title, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this title for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions deemed necessary by the Secretary to assure that the purposes of this title will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this title an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this title. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment

fund corpus plus any endowment fund income for any educational purpose.

(20 U.S.C. 130aa-1) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

INVESTMENTS

SEC. 204. (a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(20 U.S.C. 130aa-2) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

WITHDRAWALS AND EXPENDITURES

SEC. 205. (a) The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c)(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(20 U.S.C. 130aa-3) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2246.

ENFORCEMENT

SEC. 206. (a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this title if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 205;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 204; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this Act plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

(20 U.S.C. 130aa-4) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There is authorized to be appropriated $2,000,000 for the purposes authorized under section 203. Funds appropriated under this section shall remain available until expended.

(20 U.S.C. 130aa-5) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

CONFORMING AMENDMENTS

SEC. 208. [Conforming amendments to the Act of March 2, 1867, incorporated in text shown on pages -].

EFFECTIVE DATE

SEC. 209. This title shall take effect on October 1, 1984.

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.
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Herbert Hoover Memorial

AN ACT To recognize the fifty years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as thirty-first President of the United States, and in commemoration of the one hundredth anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to establish an appropriate memorial to the late President Herbert Hoover, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized to make grants, in accordance with the provisions of this Act, to the Hoover Institution on War, Revolution, and Peace, Stanford University, Stanford, California.

(b) No grant may be made under this Act for any fiscal year unless—

(1) the Secretary determines that the total of such grants for that year will not exceed the total amount of gifts, bequests, and devises of money, securities, and other property, made after the date of enactment of this Act, for that year for the benefit of the Hoover Institution on War, Revolution, and Peace; and

(2) the Hoover Institution on War, Revolution, and Peace furnishes to the Secretary such information at such times and in such manner as he may require.

(c) Grants made under this Act may be used for the construction of a new educational building to be used by the Hoover Institution on War, Revolution, and Peace, and for the equipment of such building.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 1, 88 Stat. 1918.

Sec. 2. (a) The Congress finds that, if a facility constructed with the aid of any grant under this Act is used as an educational facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall, therefore, be deemed to be the period of Federal interest in such facility for the purposes of this Act.

(b) If, within twenty years after completion of construction of an educational facility which has been constructed in part with a grant or grants under this Act—

(1) the Hoover Institution on War, Revolution, and Peace (or its successor in title or possession) ceases or fails to be a nonprofit institution, or

(2) the facility ceases to be used as an educational facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such Institution (or successor) an amount which bears to the then value of the facility the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility (as determined by the Secretary) financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under this Act shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 2, 88 Stat. 1919.

Sec. 3. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the Hoover Institution on War, Revolution, and Peace that are pertinent to the grant received.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 3, 88 Stat. 1919.

Sec. 4. The Hoover Institution on War, Revolution, and Peace shall, annually, prepare and furnish to the President and the Congress a report on the expenditure of funds received by the Institution in the previous fiscal year during the period for which grants are made under this Act.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 3, 88 Stat. 1919.

Sec. 5. There are authorized to be appropriated to the Secretary for making grants in accordance with this Act amounts not to exceed $7,000,000. Funds appropriated pursuant to this Act shall be available without fiscal year limitation, for the period beginning on the date of enactment of this Act and ending five years after such date.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 5, 88 Stat. 1919.

Sec. 6. Grants made pursuant to this Act shall be the sole Federal memorial to the late President Herbert Hoover.

(—U.S.C.—) Enacted January 2, 1975, Public Law 93-585, sec. 6, 88 Stat. 1919.

Grants to Eisenhower College and to the Samuel Rayburn Library

(P.L. 93-441)

AN ACT To authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, New York

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SEC. 2. (a) Except as provided by subsection (b) and after receiving the assurances described in subsection (c), the Secretary of the Treasury is authorized to take one-tenth of all moneys derived from the sale $1 proof coins minted and issued under section 101(d) of the Coinage Act of 1965 (31 U.S.C. 391(d)) and section 203 of the Bank Holding Company Act Amendments of 1970 (31 U.S.C. 324b) which bears the likeness of the late President of the United States, Dwight David Eisenhower, and transfer such amount of moneys to Eisenhower College, Seneca Falls, New York.

(b) For the purposes of carrying out this section, there is authorized to be appropriated not to exceed $10,000,000.

(c) Before the Secretary of the Treasury may transfer any moneys to Eisenhower College under this Act, Eisenhower College must make satisfactory assurances to him that any amount equal to 10 per centum of the total amount of moneys received by Eisenhower College under this Act shall be transferred to the Samuel Rayburn Library at Bonham, Texas.

(31 U.S.C. 391) Enacted October 11, 1974, Public Law 93-441, sec. 2, Stat. 1262.

Education Amendments of 1980

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TITLE XIII—MISCELLANEOUS PROVISIONS

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PART H—MEMORIALS

Subpart 1—The Robert A. Taft Institute

SHORT TITLE

SEC. 1371. This subpart may be cited as the "Robert A. Taft Institute Assistance Act".

GRANTS FOR DEVELOPMENT

SEC. 1372. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants to the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the total amount of private contributions received by the Institute for the fiscal year for which the grants are made.

(c) No payment may be made under this subpart except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1373. There are authorized to be appropriated $750,000 for the fiscal year 1981 and for each fiscal year ending prior to October 1, 1985.

Subpart 2—General Daniel James Memorial Health Education Center

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 1376. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1377. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Subpart 3—The William Levi Dawson Chair of Public Affairs

SHORT TITLE

SEC. 1381. This subpart may be cited as the "William Levi Dawson Chair of Public Affairs Act".

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1382. (a) The Secretary of Education is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1383. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1802[1] of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

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[1] Apparent error. Should probably refer to section 1382.

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TITLE III—HIGHER EDUCATION PROJECTS

LIBRARY PROJECT AUTHORIZED

Sec. 301. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial assistance, in accordance with the provisions of this section, to pay all of the cost of construction, and related expenses, for an addition to the William H. Mortensen Library at the University of Hartford located at Hartford, Connecticut, to enable the University of Hartford to house a collection of materials relating to Presidential campaigns and to American political history, known as the Presidential Americana, together with other collections.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $6,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(—U.S.C.—) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

HUMAN DEVELOPMENT CENTER FACILITY AUTHORIZED

Sec. 302. (a) The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas located in Lawrence, Kansas, to pay the Federal share of the cost of construction and related costs for a human development center facility at the University of Kansas, to be used as a national research and training resource for individuals acquiring expertise in the rehabilitation, education, parent training, employment, independent living, and public policy concerns of handicapped individuals and their families, and as a treatment resource for handicapped persons and their families.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $9,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(—U.S.C.—) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2248.

CARL VINSON INSTITUTE OF GOVERNMENT AUTHORIZED

Sec. 303. (a) In recognition of the public service of Representative Carl Vinson, in order to enhance the program of service to State and local governments in Georgia and in other States provided by the Carl Vinson Institute of Government of the University of Georgia, and in order to preserve a historic landmark that provided special education opportunities for young women in Georgia and in other States at a time when such opportunities were limited or nonexistent, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the State of Georgia to renovate the physical facilities of the former Lucy Cobb Institute for Girls in Athens, Georgia, for the purpose of providing a center for the Carl Vinson Institute of Government of the University of Georgia.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated $3,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(—U.S.C.—) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2248.

JOHN W. MCCORMACK INSTITUTE OF PUBLIC AFFAIRS

SEC. 304. (a) In recognition of the public service of the former Speaker of the United States House of Representatives, John W. McCormack, and of the pressing need for national centers for applied public policy research, the Secretary is authorized to provide funds in accordance with the provisions of this section to assist in the development of the John W. McCormack Institute of Public Affairs, located at the University of Massachusetts, Boston, Massachusetts.

(b) No payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the McCormack Institute, which is defined as research, instruction, and civil education related to public policy and the role of representative government in the United States.

(c)(1) Funds appropriated pursuant to this section shall be made available to the John W. McCormack Institute on or after October 1, 1984, and prior to the close of the fiscal year ending September 30, 1987.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this section for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed $3,000,000. Funds appropriated pursuant to this section shall remain available until expended.

(—U.S.C.—) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2249.

Human Services Reauthorization Act

(P.L. 98-558)

* * * * * * *

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

Sec. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

(—U.S.C.—) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2888.

RESEARCH CENTERS

Sec. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(—U.S.C.—) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2889.

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